19932

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 173.

THE DULUTH AND IRON RANGE RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

THE COUNTY OF ST. LOUIS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

FILED DECEMBER 22, 1899.

(17,592.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JUNE 29, 1900.

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1 STATE OF MINNESOTA:

Supreme Court.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and Penalties Thereon for the Year 1897, Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

To the Honorable Charles M Start, chief justice of the supreme court of the State of Minnesota:

The petition of Duluth & Iron Range Railroad Company respectfully shows that on the 2nd day of November, 1899, the supreme court of the State of Minnesota rendered a final judgment against your petitioner in a certain case brought against certain lands to enforce the payment of taxes and the penalties thereon for the year 1897, delinquent and unpaid on the first Monday in January, 1899, wherein The County of St. Louis was plaintiff and your petitioner was respondent, affirming the judgment of the district court of St. Louis county, Minnesota, entered therein on the 10th day of April, 1899, and for the sum of forty-three and $\frac{75}{100}$ dollars ($43.75), costs and disbursements, as will appear by reference to the records and proceedings in said cause, and that said supreme court of the State of Minnesota is the highest court of said State in which a decision in said suit could be had.

Your petitioner claims the right to remove said judgment to the Supreme Court of the United States by a writ of error under sec. 709 of the Revised Statutes of the United States, and to have said judgment re-examined in said Supreme Court of the United
2 States, because in said suit there was drawn in question the validity of a statute of the State of Minnesota and of an authority exercised under said statute, on the ground that the same was repugnant to the Constitution of the United States, and the decision of said supreme court of the State of Minnesota was in favor of the validity of said statute and authority; and, further, that your petitioner in said suit claimed a right, title, privilege, and immunity under the Constitution of the United States and the decision of said supreme court of the State of Minnesota was against the right, title, privilege, and immunity specially set up and claimed by your petitioner under said Constitution.

The above-mentioned suit was brought in the district court of St. Louis county, Minnesota, by the county of St. Louis, to enforce the payment of taxes and penalties for the year 1897, delinquent and unpaid on the first Monday in January, 1899, upon certain lands; your petitioner thereupon, pursuant to the statute in such case made and provided, filed its answer in said suit, stating its objections to the enforcement of taxes for said year 1897 against the lands in said answer described and owned by it, a true copy of

which answer, marked Exhibit "A," is hereto attached, and the same is hereby referred to and made a part hereof.

That in and by said answer the following, among other, objections were urged: (1) That no part of the lands described in the answer were subject to taxation for the year 1897; that under the several legislative acts set forth in said answer, and especially the act of the State of Minnesota approved March 9, 1875, entitled "An act granting certain swamp lands to the Duluth & Iron Range Railroad Company," and by virtue of the other facts in said answer alleged, said lands and all thereof were and are exempt from taxation for the year 1897; (2) that the several acts of the legis-
3 lature of the State of Minnesota set forth in said answer granting said lands to the Duluth & Iron Range Railroad Company, the construction of the railroad by said company under and pursuant to said acts, the acceptance of said railroad by the State of Minnesota, and the conveyance of said lands to said company at the times and in the manner in said answer stated, constituted a contract between the State of Minnesota and the said Duluth & Iron Range Railroad Company to the effect that said lands should not be subject to taxation until the expiration of five years from the issuance to said railroad company of the patents or deeds of said lands, unless the same should be previously sold or disposed of by said company; (3) that the act of the legislature of the State of Minnesota approved March 19, 1895, being chapter 168 of the General Laws of said State for the year 1895, entitled "An act relating to the taxation of certain lands owned by railroad companies in this State and repealing laws and parts of laws relating to the taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," impairs the obligation of said contract between the State of Minnesota and the said Duluth & Iron Range Railroad Company; (4) that said act of March 19, 1895, in so far as it impairs the obligation of said contract, conflicts with section ten (10) of article one (1) of the Constitution of the United States and is for that reason void; (5) that the enforcement of the taxes and penalties against said lands for the year 1897 would be an impairment and violation of said contract, contrary to the requirements of section ten (10), article one (1), of the Constitution of the United States, and would result in depriving this respondent of its property without due process of law, contrary to the provisions of section — (1) of article fourteen (14) of the amendments to the Constitution of the United States; (6)
4 that the said Duluth & Iron Range Railroad Company on the 16th day of May, 1884, duly accepted the provisions of an act of the legislature of the State of Minnesota entitled "An act providing for the collection of taxes from the St. Paul, Stillwater & Taylor's Falls Railroad Company and other railroad companies," approved March 10th, 1873, and ever since said acceptance has annually paid to the State of Minnesota, as required and within the time specified by said act, the proper gross-earnings tax fixed thereby, and paid said gross-earnings tax for the year 1897; that the acceptance of the provisions of said act of March 10th, 1873,

by said Duluth & Iron Range Railroad Company, as in said answer set forth, constituted a contract between the said railroad company and the said State of Minnesota that the said lands of said company should not be subject to taxation like other real estate, but that the payment of the percentage of the gross earnings of said railroad, as in said act provided, should be in lieu of all other taxation, and that by reason of said contract the lands in said answer described are exempt from taxation for the year 1897, except the requirement to pay said gross-earnings tax; (7) that said act of March 19, 1895, being chapter 168 of the General Laws of said State for the year 1895, impairs the obligation of the contract last mentioned; (8) that said act of March 19, 1895, in so far as it impairs the obligation of said last-mentioned contract, is contrary to the provisions of section ten (10) of article one (1) of the Constitution of the United States, and is for that reason void.

That each and every one of said claims and objections set forth in said answer and relied upon by your petitioner was by said district court decided against your petitioner, and judgment to that effect was entered in said court; that on application of your petitioner the said district court, pursuant to the statute in such case made and provided, certified each of the above-mentioned points
5 and objections to the supreme court of the State of Minnesota.

That said supreme court of the State of Minnesota, by its said judgment of November 2nd, 1899, in all respects affirmed said judgment of said district court; all of which more fully appears by the record of said case in said supreme court of the State of Minnesota, to which reference is hereby made.

Wherefore your petitioner prays the allowance of a writ of error, returnable into the Supreme Court of the United States, and for a citation and supersedeas; and your petitioner will ever pray.

Dated November 21st, 1899.

DULUTH & IRON RANGE RAILROAD COMPANY,
By J. L. GREATSINGER, *President.*
DAVIS, HOLLISTER & HICKS AND
HENRY J. GRANNIS,
Attorneys for Petitioner.

DAVIS, KELLOGG & SEVERANCE, *Of Counsel.*

6 EXHIBIT "A."

STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and the Penalties Thereon for the Year 1897; Duluth & Iron Range Railroad Company, Respondent.

In the matter of proceedings to enforce the payment of taxes and penalties for the year 1897, on real estate situated in St. Louis county, Minnesota, claimed to be delinquent and unpaid on the first Monday in January, 1899, the respondent above named, The Duluth & Iron Range Railroad Company, a corporation, hereby
7 makes answer and states its objections to the enforcement of said alleged delinquent taxes and penalties, in respect to certain lands owned by it, which are affected by said proceedings and are hereinafter particularly described.

I.

Said respondent, Duluth & Iron Range Railroad Company, alleges that it is, and has been since a date anterior to March 9, 1875, a corporation duly organized and created under and by virtue of the general laws of the State of Minnesota, that is to say, under the provisions of title one (1), chapter thirty-four (34), of the General Statutes of 1866 of said State, and the several acts amendatory thereof and supplementary thereto.

II.

That said respondent, Duluth & Iron Range Railroad Company, is the owner of the following-described tracts, pieces or parcels of land situated in St. Louis county, Minnesota, to wit:

	Sec.	T.	R.
S. W. ¼ of N. W. ¼	10	56	12
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	13	60	12
Lot 2	4	56	13
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, lots 7 & 8	26	56	17
Lot 4, W. ½ of N. W. ¼, N. ½ of S. W. ¼	28	56	17
N. E. ¼ of S. E. ¼	30	56	17
W. ½ of N. E. ¼, N. E. ¼ of N. W. ¼, S. ½ of N. W. ¼	32	56	17
Lots 3 and 4, N. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼	19	57	17
N. E. ¼ of N. E. ¼, S. W. ¼ of S. E. ¼, N. ½ of S. E. ¼	21	57	17
N. ½ of N. W. ¼, S. E. ¼ of N. W. ¼, N. ½ of S. W. ¼, N. E. ¼ of S. E. ¼	23	57	17
N. E. ¼ of S. W. ¼, S. ½ of S. W. ¼, S. E. ¼	24	57	17
S. W. ¼ of S. W. ¼	27	57	17

	Sec.	T.	R.
N. W. ¼ of N. E. ¼, S. ½ of N. E. ¼, S. E. ¼ of N. W. ¼, N. ½ of S. E. ¼	13	60	17
S. E. ¼ of N. W. ¼, E. ½ of S. W. ¼	21	55	18
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	22	55	18
N. W. ¼, N. E. ¼ of S. W. ¼	27	55	18
8 N. E. ¼, E. ½ of N. W. ¼, N. ½ of S. E. ¼	28	55	18
E. ½ of S. W. ¼, S. E. ¼ of N. W. ¼	2	55	18
N. E. ¼ of N. W. ¼	11	55	18
S. E. ¼	13	51	18
W. ½ of N. E. ¼, N. W. ¼	24	51	18
Lot 3, S. W. ¼ of N. W. ¼	2	52	18
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	10	52	18
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼, S. ½ of S. E. ¼	23	52	18
N. W. ¼ of S. W. ¼	24	52	18
N. W. ¼ of N. W. ¼	25	52	18
Lots 1, 2 and 3, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	1	53	18
S. ½ of S. W. ¼, S. W. ¼ of S. E. ¼	3	53	18
S. E. ¼	4	53	18
S. ½ of N. E. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼	8	53	18
S. E. ¼ of N. W. ¼, S. W. ¼	9	53	18
S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼, S. E. ¼ of N. E. ¼, E. ½ of S. E. ¼	10	53	18
S. ½ of N. E. ¼, S. ½ of N. W. ¼, S. W. ¼, W. ½ of S. E. ¼	11	53	18
N. E. ¼ of S. E. ¼	11	53	18
N. W. ¼ of N. E. ¼, N. ½ of N. W. ¼	14	53	18
N. E. ¼ of N. E. ¼, W. ½ of N. E. ¼, N. E. ¼ of N. W. ¼, S. ½ of N. W. ¼, N. ½ of S. W. ¼	15	53	18
S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	15	53	18
S. ½ of N. W. ¼	17	53	18
W. ½ of N. W. ¼, W. ½ of S. W. ¼	26	53	18
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼	27	53	18
N. ½ of N. E. ¼	34	53	18
S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼	35	53	18
S. ½ of S. W. ¼, S. ½ of S. E. ¼	2	54	18
N. ½ of S. W. ¼, S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	3	54	18
N. ½ of S. E. ¼	4	54	18
N. E. ½ of S. W. ¼, N. W. ¼ of S. E. ¼	9	54	18
N. ½ of S. W. ¼, S. ½ of S. E. ¼	10	54	18
N. ½ of N. E. ¼, N. E. ¼ of N. E. ¼	11	54	18
S. W. ¼ of N. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼	34	54	18
N. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. E. ¼ of S. E. ¼	35	54	18
S. W. ¼ of N. E. ¼, S. ½ of N. W. ¼	22	56	18
N. W. ¼	23	56	18
N. E. ¼ of N. E. ¼	24	56	18
N. ½ of N. W. ¼	26	56	18
N. E. ¼ of N. E. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	27	56	18
S. E. ¼ of S. E. ¼	10	57	18
N. E. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼	11	57	18
S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	21	57	18
E. ½ of N. W. ¼, S. E. ¼ of S. W. ¼	22	57	18

	Sec.	T.	R.
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼	28	57	18
Lots 1 and 2, S. ½ of N. E. ¼	6	56	13
S. W. ¼ of N. W. ¼, S. W. ¼ of S. E. ¼	5	56	14
S. E. ¼ of N. E. ¼	7	56	14
N. W. ¼, N. W. ¼ of S. W. ¼	8	56	14
N. ½ of N. E. ¼	17	56	14
Lots 2 and 3, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼	18	56	14
S. E. ¼ of S. E. ¼	29	56	14
S. W. ¼ of S. W. ¼	32	56	14
S. W. ¼ of S. W. ¼	8	57	14
Lot 6	6	57	14
9 W. ½ of S. W. ¼	14	57	14
N. E. ¼ of S. E. ¼	31	60	14
S. E. ¼ of S. E. ¼	5	55	15
Lot 7	13	55	15
S. E. ¼ of S. W. ¼	34	55	15
Lot 1, S. ½ of N. E. ¼, N. E. ¼ of S. W. ¼	6	56	15
Lot 1, N. E. ¼ of N. W. ¼	7	56	15
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	17	56	15
Lots 2 and 4, S. E. ¼ of N. E. ¼, S. E. ¼ of S. W. ¼, E. ½ of S. E. ¼	18	56	15
S. E. ¼ of S. W. ¼	19	56	15
N. W. ¼ of N. W. ¼, S. ½ of N. W. ¼, N. ½ of S. W. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼	20	56	15
N. W. ¼ of N. W. ¼	28	56	15
N. E. ¼ of N. W. ¼, S. W. ¼ of N. E. ¼	30	56	15
N. W. ¼ of S. W. ¼	32	56	15
S. E. ¼ of S. W. ¼	11	60	15
Lots 2, 3 and 4	1	61	15
N. W. ¼ of S. W. ¼	8	51	16
S. W. ¼ of N. W. ¼	3	54	16
Lots 4, 1 and 2, S. ½ of N. E. ¼, N. W. ¼ of S. E. ¼	4	54	16
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	5	54	16
Lot 1, S. ½ of N. E. ¼, lot 2, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	6	54	16
S. W. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼	7	54	16
N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	17	54	16
S. E. ¼ of S. W. ¼	18	54	16
N. E. ¼ of N. E. ¼	19	54	16
S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. ½ of S. W. ¼, N. W. ¼ of S. E. ¼, S. ½ of S. E. ¼	24	54	16
N. E. ¼ of S. E. ¼	23	54	16
N. E. ¼ of S. E. ¼	26	54	16
N. W. ¼ of S. W. ¼	28	54	16
N. W. ¼ of S. W. ¼	29	54	16
Lots 4 and 6	30	54	16
N. ½ of N. W. ¼. S. E. ¼ of S. E. ¼	34	54	16
N. E. ¼ of S. W. ¼	35	54	16
Lot 3, S. W. ¼ of N. W. ¼	3	55	16
S. W. ¼ of N. W. ¼	20	55	16

	Sec.	T.	R.
E. ½ of S. E. ¼	21	55	16
S. W. ¼ of N. W. ¼	33	55	16
Lot 5	34	55	16
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	35	57	16
Lot 1	7	58	16
N. E. ¼ of N. W. ¼	19	60	16
N. E. ¼	21	60	16
W. ½ of S. W. ¼	23	60	16
S. W. ¼ of N. W. ¼	8	56	17
Lot 11	22	56	17
N. E. ¼ of N. W. ¼	27	60	18
W. ½	8	52	19
E. ½	32	53	19
S. ½ of N. W. ¼	34	53	19
S. E. ¼ of S. E. ¼	11	55	19
N. E. ¼ of N. W. ¼, N. W. ¼ of N. E. ¼	26	52	20
N. W. ¼ of S. W. ¼	4	56	20
10 N. W. ¼ of N. W. ¼	17	56	20
N. W. ¼ of N. E. ¼	22	56	20
S. W. ¼ of S. W. ¼	28	56	20
S. W. ¼ of N. E. ¼, except 1.73 acres right of way conveyed to D. M. & N. R'y Co	5	57	20
S. E. ¼ of N. W. ¼, except 3.10 acres right of way conveyed to D. M. & N. R'y Co	5	57	20
S. W. ¼ of S. W. ¼, E. ½ of S. W. ¼, S. W. ¼ of S. E. ¼	5	57	20
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼	7	57	20
N. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼	9	57	20
N. E. ¼ of N. W. ¼	11	57	20
W. ½ of N. E. ¼, N. W. ¼, N. W. ¼ of S. W. ¼	17	57	20
N. E. ¼ of N. E. ¼	19	57	20
S. W. ¼ of N. E. ¼	18	57	20
N. E. ¼ of N. W. ¼	25	57	20
S. W. ¼ of N. E. ¼	34	57	20
Lot 4, S. ½ of N. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, except 3.50 acres right of way conveyed to D. M. & N. R'y Co	4	57	20
N. ½ of S. E. ¼, except 6.97 acres right of way conveyed to D. M. & N. R'y Co	4	57	20
S. W. ¼ of N. E. ¼, S. ½ of N. W. ¼	5	59	20
Lot 2	7	59	20
N. W. ¼ of N. E. ¼	10	59	20
S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	13	59	20
S. W. ¼ of S. E. ¼	1	59	20
N. W. ¼ of N. E. ¼	26	59	20
S. E. ¼ of N. E. ¼	13	64	20
S. W. ¼ of N. W. ¼	25	64	20
S. W. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼	1	66	20
S. E. ¼ of N. E. ¼, N. ½ of S. E. ¼, S. E. ¼ of S. E. ¼	2	66	20
S. W. ¼ of S. W. ¼	11	66	20
N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼	25	66	20

	Sec.	T.	R.
N. E. ¼ of S. W. ¼, S. E. ¼ of N. W. ¼	18	66	20
S. W. ¼ of S. E. ¼	2	56	21
S. E. ¼ of S. W. ¼	26	56	21
N. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼	34	56	21
S. W. ¼ of S. W. ¼	14	57	21
S. W. ¼	13	58	21
S. W. ¼ of S. W. ¼	5	59	21
S. E. ¼ of S. E. ¼	8	59	21
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼	12	59	21
Lots 5 and 6	30	59	21
S. E. ¼ of S. E. ¼	13	61	21
N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	21	61	21
N. W. ¼ of S. W. ¼	22	61	21
N. ½ of N. E. ¼, S. W. ¼	23	61	21
N. E. ¼, N. W. ¼, S. W. ¼, S. E. ¼ (all)	25	61	21
S. ½ of S. W. ¼, S. ½ of S. E. ¼	27	61	21
S. E. ¼ of S. W. ¼	26	61	21
S. E. ¼ of N. W. ¼, S. ½ of S. W. ¼, S. ½ of S. E. ¼	29	61	21
N. E. ¼, N. ½ of N. W. ¼, E. ½ of S. W. ¼, S. E. ¼	33	61	21
N. ½, S. W. ¼, N. ½ of S. E. ¼	35	61	21
Lot 1, N. W. ¼ of N. E. ¼	35	65	21

11 That the abbreviations "sec.," "T." and "R." in the above description mean, wherever used, section, township and range, respectively, and that the figures placed under said abbreviations refer to the section, township and range, respectively, of the several subdivisions and parcels of land hereinbefore mentioned.

That all of the lands hereinbefore described were included by the auditor of said county in the list of lands upon which taxes were claimed to be delinquent on the first Monday in January, 1899, and said list has heretofore been filed in the office of the clerk of said district court.

III.

That by an act of Congress, approved March 12, 1860, entitled "An act to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, to Minnesota and Oregon and for other purposes," it was provided:

"That the provisions of the act of Congress entitled 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' approved September 28, 1850, be, and the same are hereby, extended to the States of Minnesota and Oregon; provided that the grant hereby made shall not include any lands which the Government of the United States may have re-
12 served, sold or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act."

SEC. 2. "And *it be* further enacted, That the selection to be made

from lands already surveyed in each of the States, including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the State of Louisiana in draining the swamp lands therein, approved March 2nd, 1849, shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act; and as to all lands to be hereafter surveyed within two years from such adjournment, at the next session, after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed."

Approved March 12th, 1860.

That pursuant to said act of Congress the State of Minnesota selected the lands hereinbefore described, and other lands, and said lands were duly certified and conveyed to said State, and it did obtain title to the same prior to the conveyance by said State to said Duluth & Iron Range Railroad Company as hereinafter set forth.

That by an act of the legislature of the State of Minnesota, approved March 9th, 1875, being chapter fifty-four (54) Special Laws of 1875, entitled, "An act granting certain swamp lands to the
13 Duluth & Iron Range Railroad Company," it was provided as follows:

SEC. 1. That for the purpose of aiding the Duluth & Iron Range Railroad Company, a corporation organized under and by virtue of the laws of Minnesota, to construct a railroad from Duluth, by the shortest and most feasible route to the northeast corner of township number sixty (60) north of range number twelve (12) west, on the Mesaba iron range there is hereby granted to the said corporation or its assigns an amount of swamp lands belonging or hereafter to accrue to the State under the act of Congress of March twelfth, eighteen hundred and sixty, equal to ten sections per mile for each mile of said road that may be completed, to be selected within ten miles on each side of the line of said road; and in case there shall not be sufficient amount of said swamp lands unsold or unappropriated within each ten-mile section of said road as completed, then said company shall have the privilege of locating the deficiency on any of the swamp lands belonging or to accrue to the State, not otherwise previously disposed of, within the counties of St. Louis, Lake and Cook, and no other counties in the State; provided, that the gauge of said railroad shall not be less than three feet, with iron or steel rails of not less than twenty-five pounds to the yard; and provided further, that no lands shall inure to the said company under this act until all grants of swamp lands previously
14 made by the State shall be fully satisfied or shall become forfeited by loss of time, or by failure to fulfill the conditions annexed to the said respective grants or otherwise.

SEC. 2. That when the governor of the State shall be duly notified (by the company aforesaid), of the completion of each and every ten miles of said road, it shall be his duty to have same examined by sworn commissioners, and on their certificate of the completion of each consecutive ten miles in a good and substantial manner as contemplated by this act, he shall notify the secretary of state, who shall forthwith cause swamp-land certificates to be issued

to the president and directors of said railroad company for the number of acres to which they shall be entitled under this act, for the number of miles so completed as provided in section one; provided, that within twelve months from the passage of this act, the company aforesaid shall cause a survey of the line of said road to be made, and file a map of the same with the secretary of state; and provided, further, that at least twenty miles of said road shall be built within two years from the date of this act, and the whole completed within five years; and further provided, that none of the lands hereby granted shall be subject to taxation until the expiration of five years from the issuance of the patent by the State, unless previously sold or disposed of by said railroad company.

SEC. 3. That after the filing of the map showing the line of road as provided in the last preceding section, all of the swamp lands belonging to the State for ten miles on each side of the line of said road shall be withdrawn from sale for the purposes contemplated in this act.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 9, 1875.

That by an act of the legislature of this State, approved February 17th, 1876, being chapter two hundred and forty-one (241) entitled "An act relating to the Duluth & Iron Range railroad," it was provided as follows:

SEC. 1. That the time required for the performance of all acts and duties on the part of the Duluth & Iron Range railroad required and specified by chapter fifty-four (54) of the Special Laws of 1875, be and the same are hereby extended for the term of three (3) years from the passage of this act.

SEC. 2. This act shall take effect and be in force from and after its passage.

That by an act of the legislature of this State, approved March 6th, 1883, being chapter sixty-nine (69), Special Laws of 1883, entitled

"An act to amend and continue the act of the legislature of this State, approved March ninth (9th), one thousand eight hundred and seventy-five (1875) relating to the Duluth & Iron Range Railroad Company," it was provided:

SEC. 1. That the Duluth & Iron Range Railroad Company, a corporation existing under the laws of this State, shall continue and have perpetual succession, and said corporation is hereby empowered to relocate and change the line of its railroad so as to make the northern terminus thereof at some convenient point to be selected by said corporation in township sixty-two (62) north of range fifteen (15) west, and that the time for the survey, location and completion of said line of railroad be, and the same is, extended for the period of five (5) years from and after the time of the passage of this act, hereby expressly reserving and saving to said corporation all grants, property, rights, privileges and immunities in said legislative act approved March ninth (9th), one thousand eight hundred and seventy-five (1875); provided,

SEC. 2. That said corporation may, at any time, select and certify, subject to the prior rights of selection of companies holding grants of earlier date, to the auditor of State, the swamp lands granted as aforesaid, in the aid of the construction of its line of railroad, but none of said lands shall be conveyed by deed to said corporation until it shall have completed its line of railroad from the northern terminus thereof, to and within the corporate limits of the village of Duluth; provided further:

17

SEC. 3. That said corporation may, within six (6) months from the time of the approval of this act, file in the office of the secretary of state, a resolution of its board of directors, approved by its stockholders, accepting the provisions of this act and upon the filing of this resolution, the said corporation shall become entitled to the benefits of the provisions of this act, and the same shall become obligatory.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 6, 1883.

That the respondent on the fifth day of May, 1883, filed in the office of the secretary of state, a resolution of its board of directors duly approved by the unanimous vote of all its stockholders accepting the provisions of said last-named act, which resolution is in the words and figures following, to wit:

"The following resolution was offered and unanimously passed, having received five thousand votes in favor thereof, to wit:

"Whereas, the board of directors of this corporation in the forenoon of this 25th day of April, A. D. 1883, at a meeting of said board, duly adopted a resolution in the words and figures following, to wit:

18

"Resolved by the board of directors of the Duluth & Iron Range Railroad Company, that the act of the legislature of the State of Minnesota, entitled, 'An act to amend and continue the act of the legislature of this State, approved March ninth (9th), A. D. one thousand eight hundred and seventy-five (1875) relating to the Duluth & Iron Range Railroad Company,' approved March sixth (6th) A. D. 1883, be and the same is accepted by the corporation and all and singular the provisions of said legislative act, are hereby declared to be binding and obligatory upon this company, as appears by the records and minutes of said board now here exhibited. Now, therefore, be it—

"Resolved, by the stockholders of said The Duluth & Iron Range Railroad Company, duly convened, that the foregoing resolution of acceptance is in all respects approved, ratified and confirmed."

That by an act of the legislature of this State, approved March 10th, 1885, being chapter eighty-seven (87) Special Laws 1885, entitled "An act to amend section one (1) of chapter fifty-four (54) of the Special Laws of one thousand eight hundred and seventy-five (1875), entitled, An act granting swamp lands to the Duluth and Iron Range Railroad Company, it was provided:

19

SEC. 1. That section one (1) of chapter fifty-four (54) of the Special Laws of one thousand eight hundred and seventy-five (1875) be amended so as to read as follows:

SEC. 1. That for the purpose of aiding the Duluth and Iron Range Railroad Company, a corporation organized under and by virtue of the laws of the State of Minnesota, to construct a railroad from Duluth by the most feasible route, to the northeast corner of township numbered sixty (60) north, of range numbered 12 west, there is hereby granted to said corporation, or its assigns, an amount of swamp land belonging to, or that may hereafter accrue to, the said State equal to ten (10) sections per mile for each mile of railroad that is or may be completed by said railroad company in the construction of its said railroad to be selected from any swamp lands belonging to, or that may accrue to said State, unsold or unappropriated; provided that the said railroad from its present terminus in township sixty-two (62) north, range fifteen (15) west, shall be constructed and in operation to the village of Duluth on or before the sixth (6) day of March, one thousand eight hundred and eighty-eight (1888).

SEC. 2. This act shall take effect and be in force from and after its passage.

That the respondent caused a survey of the line of said
20 railroad to be made from Duluth to the northern terminus thereof at Tower, in township sixty-two (62) north, of range fifteen (15) west, and on the 28th day of May, 1883, filed a map of such survey showing the location and line of said railroad, with the secretary of state of this State. That under its articles of incorporation and the acts of the legislature of this State, aforesaid, respondent was authorized to construct a railroad from Duluth to the village of Tower, its northern terminus, in town. 62, north of range 15 west. That about the first of June, 1883, respondent commenced the construction of said railroad, and on the 20th day of December, 1886, had constructed and fully completed said railroad and had the same in operation from said Tower, its northern terminus, to and within the corporate limits of the village, now city, of Duluth. That the length of said railroad so constructed and in operation from its northern terminus in town. 62, north of range 15 west, to its terminus in the city of Duluth is ninety-four and eight-tenths miles ($94\frac{8}{10}$).

That on the 17th day of October, 1887, the respondent duly notified the governor of this State of the completion of the entire line of its railroad as aforesaid, and that the same was in operation and open for business on the 20th day of December, 1886. That, thereupon, the said governor had the said railroad examined by sworn commissioners duly appointed by him for that purpose, and
21 the said commissioners on the 15th day of November, 1887, filed with the governor their certificate of the due completion of the entire line of said railroad, which certificate is as follows:

"To the Honorable A. R. McGill, governor of Minnesota.

SIR: We, the undersigned, sworn commissioners, appointed by you to examine the Duluth and Iron Range railroad, respectfully report as follows:

We made on Monday, November 7th, 1887, an examination of

said road, and found that the Duluth and Iron Range Railroad Company had constructed in a good and substantial manner, a continuous line of railroad, from the village of Duluth to its northern terminus at the iron mines of the Minnesota Iron Company, in township sixty-two (62), north of range fifteen (15) west.

We found said railroad first class and constructed within the time specified by the act of the legislature of the State of Minnesota, of March 9th, 1875, and acts amendatory thereof, making and continuing a grant of swamp lands to the Duluth and Iron Range Railroad Company, to aid in the construction of said railroad.

The length of said railroad from the elevator switch in the village of Duluth, at which point it connects with the St. Paul &
22 Duluth railroad, to the end of the track at the said mines, we find by the statement and plat furnished us by the chief engineer of said Duluth and Iron Range railroad, which statement and plat we append to this report, to be ninety-four and eight-tenth-($94\frac{8}{10}$) miles.

The road is first class in every respect, equipped with excellent rolling stock and extensive ore docks at the shipping port of Two Harbors. The track is of the standard gauge and is laid with first-class steel rails, 61 pounds to the yard, connected by standard angle bars, and is underlaid with twenty-six hundred and forty, to three thousand ties per mile and ballasted with gravel the entire distance. All the bridges are well constructed and substantial.

From the report made to us by the officials of said railroad company, we find that the ore docks of the company at Two Harbors have cost over two hundred thousand dollars, and the merchandise docks at the same place over thirty thousand dollars. That nearly 400,000 tons of iron ore have been transported by the road and shipped through those ore docks this season. That since the opening of this road, which was *par*-tically completed in 1884, up to the close of this season, 990,000 tons of iron ore have been mined and shipped to market over this road, the mining cost of which and its transportation to the lake shipping port at Two Harbors has exceeded three million dollars—all of which moneys have been
23 expended in this State,—to say nothing of the cost of the railroad and its equipments which has been about three and a half million dollars more. They also report to us that the said road has the following equipment:

Passenger cars, 4; box cars, 24; flat cars, 115; ore cars with a capacity of twenty-four tons each, 400; first-class locomotive, 17. And that the said railroad company employs at the present time three hundred and fifty men, and that there are employed at the said mines over twelve hundred men.

We were highly impressed with the great value to the State of Minnesota of this important development and the immense future possibilities, which we deem it highly probably will be reached at an early day.

The results achieved since 1884 in this wilderness are astonishing. Minnesota bids fair to take a foremost position as a producer

of first-class iron ore, second to no State in the Union, both as to quality and quantity.

The utilization of this ore, by its manufacture within our State into all the products which iron ore is capable of being used for, to supply the demand of the growing empire of the Northwest requires, in our judgment, only the same courage, enterprise and judicious investiment of large capital as has been combined and freely
24 employed in the existing developments."

St. Paul, Minnesota, November 14th, 1887.

R. B. LANGDON.
H. B. STRAIT.
WILLIAM BICKEL.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

Be it known that on this 14th day of November, 1887, personally appeared before me, R. B. Langdon, H. B. Strait, and William Bickel, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their own free act and deed.

[SEAL.] P. M. KERST,
Notary Public, Ramsey Co., Minn.

Filed November 15th, 1887.

That together with said report there was filed with the said governor a certificate, of which the following is a copy:

"To the Honorable R. B. Langdon, H. B. Strait, and William Bickel, commissioners appointed by the governor of the State of Minnesota to examine the line of the Duluth and Iron Range railroad:

"I, Richard Lee, chief engineer of the Duluth and Iron Range Railroad Company, do hereby certify that the length of said road as now constructed from the village of Duluth to its northern terminus in township sixty-two (62) north, range fifteen (15)
25 west, is ninety-four and eight-tenth- (94.8) miles.

RICHARD H. LEE,
Chief Engineer."

That the said Duluth and Iron Range Railroad Company duly selected the lands hereinbefore described as and for a portion of the lands to which it is entitled under the aforesaid grant, and pursuant to said several acts of the legislature of the State of Minnesota and by virtue of the acceptance by said railroad company of the provisions of said acts and the performance of the conditions thereof the said State of Minnesota did, within five (5) years prior to the second day of May, 1897, that is, between the second day of May, 1892, and the second day of May, 1897, duly convey and transfer to said Duluth and Iron Range Railroad Company all the lands above described, which conveyance and transfer was made by patents or deeds issued and delivered at different times during said

period, all of which patents or deeds are substantially in the form of Exhibit "A" hereto attached and made a part hereof, with the exception of dates, descriptions and signatures. That said Duluth and Iron Range Railroad Company did not on or prior to May 1st, 1897, sell, dispose of or convey said above-described lands or any part thereof, and that said company is now and ever since receiving said conveyance has been the owner of all of said lands.

26 That no part of said lands were subject to taxation for the year 1897; that under the several legislative acts hereinbefore referred to, and especially the said act of the legislature of the State of Minnesota, approved March 9, 1875, and by virtue of the facts herein set forth, said lands and all thereof were and are exempt from taxation for said year 1897.

IV.

That said several acts of the legislature of the State of Minnesota, granting said lands as aforesaid, the construction of said railroad by respondent under and pursuant to said acts, the acceptance of said railroad by said State and the conveyance of the lands above described to said railroad company at the times and in the manner hereinbefore stated, constituted a contract between the said State of Minnesota and the said Duluth and Iron Range Railroad Company to the effect that said lands should not be subject to taxation until the expiration of five (5) years from the issuance to said railroad company of the patents or deeds of said lands, unless the same should be previously sold or disposed of by said company; that said contract embraced not only the lands above described but all lands conveyed by said State to said railroad company pursuant to said grant.

That notwithstanding said contract, the legislature of the

27 State of Minnesota passed an act, approved March 19, 1895, the same being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, entitled as follows:

"An act relating to the taxation of certain lands owned by railroad companies in this State, and repealing laws and parts of laws relating to the taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," which provides in part as follows:

"SEC. 1. All lands in this State heretofore or hereafter granted by the State of Minnesota, or the United States, or the Territory of Minnesota to any railroad company shall be assessed and taxed as other lands are assessed and taxed in this State, except such parts of said lands as are held, used or occupied for right of way, gravel pits, side tracks, depots and all buildings and structures which are necessarily used in the actual management and operation of the railroads of said companies.

"Provided that said railroad companies shall continue to pay taxes into the State treasury upon their gross earnings in the same manner and in the same amount as now provided by law. And

that nothing in this act shall be construed to repeal said laws except in so far as the same relate to the tax upon said lands.

28 "SEC. 2. Such portion or portions of any act or acts, general or special, of the State or Territory of Minnesota heretofore enacted, which provided or attempts to provide for any exemption of lands hereby declared taxable, from taxation, or for any other method of taxing said last-mentioned lands different from the method of taxing other lands in this State, or which are in any manner inconsistent with the provisions of this act, are hereby repealed."

That said act was thereafter and at the general election for the year 1896 submitted to and approved by the people of said State.

That said act of May 19, 1895, impairs the obligation of said contract between the said State of Minnesota and the said Duluth and Iron Range Railroad Company; that it violates section ten (10) of article one (1) of the Constitution of the United States, which provides that no State shall pass any law impairing the obligation of contracts, and said act also conflicts with and is repugnant to section eleven (11) of article one (1) of the constitution of the State of Minnesota, which provides, in effect, that no law impairing the obligation of contracts shall ever be passed by said State. That this respondent expressly invokes the protection of said provisions of the Constitution of the United States and of the State of Minnesota. That said act of May 19, 1895, is void in so far as it attempts to subject to taxation lands theretofore exempt and to repeal

29 the provisions of said act of March 9th, 1875, and other laws of the State of Minnesota exempting the lands of this respondent and lands similarly situated from taxation.

V.

That the enforcement of the taxes and penalties against said lands for said year 1897 would be an impairment and violation of said contract contrary to the requirements of section ten (10), article one (1) of the Constitution of the United States and would result in depriving this respondent of its property without due process of law, contrary to the provisions of section one (1) of article fourteen (14) of the amendments to the Constitution of the United States.

VI.

As a further and additional defense to the enforcement of the taxes and penalties for the year 1897 against the lands above described, the respondent alleges that by an act of the legislature of the State of Minnesota, approved March 10th, 1873, being chapter one hundred and eleven (111) of the special laws of said State for the year 1873, entitled "An act providing for the collection of taxes from the St. Paul, Stillwater and Taylor's Falls Railroad Company and other railroad companies;" it was provided:

30 "SEC. 1. In consideration of an annual payment of a per centum, as provided in this section, by the St. Paul, Stillwater and Taylor's Falls Railroad Company, the railroad, its appurtenances and appendages, and all other property, estate and effects of said corporation, held or used for, in or about the con-

struction, equipment, renewal, repair, maintaining or operating its railroad, including the lands granted to said company to aid in the construction of said railroad, as also the stock and capital of said company, shall be and hereby are forever exempt from all taxation and from all assessments; and in consideration of the grants made to and the privileges conferred upon the said company, and the exemption contained in this section, the said company shall, during the first three years from and after January 1, 1872, on or before the first day of March of each and every year, pay into the treasury of this State one per cent. on the gross earnings of said railroad, the first payment to be made on the first day of March, one thousand eight hundred and seventy-three (1873), or within fifteen days after the passage of this act; and shall, during the seven years next ensuing after the expiration of the three years aforesaid, pay into the treasury of the State, on or before the first day of March of each year and every year, two per cent. on the gross earnings of said railroad; and shall from and after the expiration of ten years from said first day of January, one thousand eight hundred and seventy-two, on or before the first day of March of each and every
31 year, pay into the treasury of this State three per cent. of the gross earnings of said railroad; and the payment of such per centum annually as aforesaid shall be and is in full of all taxation and assessment whatever. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this State on or before the first day of February, in each year, the truth of which abstract shall be verified by affidavits of the treasurer and secretary of said company; and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstract, full power is hereby vested in the governor of this State, or any other persons appointed by law prescribed to examine, under oath, the officers and employés of said company or other persons; and if any person so examined by the governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for securing to the State the payment of the aforesaid per centums, it is hereby declared that the State shall have a lien upon the railroad of said company, and upon all property, estate and effects of said company whatever real, personal or mixed, and the lien hereby secured to the State shall have and take precedence of all demands, de-
32 crees and judgments against said company; provided, that the lands of said company shall be subject to taxation as soon as sold, leased, or contracted to be sold or leased.

SEC. 2. Any railroad company owning or operating, or which may hereafter own or operate any line or lines of railroad in this State may, by resolution of its board of directors, attested by its secretary and filed with the secretary of state, accept and become subject to the provisions of this act; and in such case the payment of such percentage in lieu of taxes, in accordance therewith, shall commence from and after the first day of March next after the com-

pletion of thirty miles of such line hereafter built, or of the entire line, if the same shall be less than thirty miles in length.

SEC. 3. This act shall take effect and be in force from and after its passage."

That on the 16th day of May, 1884, the board of directors of the said Duluth and Iron Range Railroad Company duly adopted a resolution accepting the provisions of said act, approved March 10th, 1873, and it thereby elected to become subject to the provisions of said act, which resolution was duly attested by the secretary of said railroad company, and the same was on the 3rd day of June, 1884, at eleven (11) o'clock a. m., filed with the secretary of
33 state of said State of Minnesota: that this respondent thereupon became and ever since has been subject to the provisions of said act of March 10th, 1873.

That ever since the said acceptance of said act of March 10th, 1873, the respondent has annually paid to the State of Minnesota, as required and within the time specified by said act, the proper gross-earnings tax fixed thereby; that said gross-earnings tax was paid for the year 1897.

That the said act of the State of Minnesota, approved March 10th, 1873, and the acceptance thereof by said Duluth and Iron Range Railroad Company, duly filed as aforesaid, constitute a contract that the said lands of the said railroad company should not be subject to ordinary taxation as other real estate, but that the payment of the percentage of the gross earnings of said railroad, as in said act provided, should be in lieu of all other taxation, and that by reason of said contract the lands hereinbefore described are exempt from taxation for the year 1897, except the requirement to pay said gross-earnings tax, which payment has been made.

That the above-mentioned act of the legislature of the State of Minnesota, approved March 19, 1895, being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, and the approved and ratification thereof by the people of said State whereby it was attempted, among other things, to subject the lands hereinbefore described and lands similarly situated
34 to taxation, the same as other lands are taxed, and to repeal said gross-earnings method of taxation, so far as it affected said lands and lands similarly situated, impairs the obligation of the contract last above mentioned, and is contrary to the provisions of section ten (10), article one (1), of the Constitution of the United States, and to the provisions of section eleven (11), article one (1), of the constitution of the State of Minnesota, which constitutional provisions are relied upon by this respondent.

Wherefore, the said respondent, Duluth and Iron Range Railroad Company, demands judgment that the lands hereinbefore described and all thereof are not subject to and be released from the payment of taxes and penalties for the year 1897.

DAVIS, HOLLISTER & HICKS,
Attorneys for Respondent,
Duluth and Iron Range Railroad Company.

EXHIBIT "A."

This indenture, made this — day of ——, A. D., one thousand eight hundred and ——, between the State of Minnesota, party of the first part, and The Duluth and Iron Range Railroad Company, a corporation organized and existing under and by virtue of the laws of said State of Minnesota, party of the second part.

35 Witnesseth that whereas, under and by virtue of an act of the legislature of the State of Minnesota, entitled "An act granting certain swamp lands to the Duluth and Iron Range Railroad Company," approved March 9, 1875, there was granted to the said railroad company, or its assigns, for the purpose of aiding it to construct a railroad from Duluth to the northeast corner of township number sixty (60), north of range twelve (12) west, on the Mesaba iron range, an amount of swamp lands then belonging, or thereafter to accrue, to the State under the act of Congress of March twelfth (12), eighteen hundred and sixty (1860), equal to ten sections per mile, for each mile of said road, that may be completed, to be selected within ten miles on each side of the line of said road, with the privilege, in case there should not be a sufficient amount of said swamp lands unsold or unappropriated within each ten-mile section of said road as completed, of locating the deficiency on any of the swamp lands belonging or to accrue to the State, not otherwise previously disposed of, within the counties of Saint Louis, Lake and Cook.

And whereas the said grant was upon the condition that the said company should, within twelve months from the passage of said act, cause a survey of the line of said road to be made and file a map of the same in the office of the secretary of state, and that at least twenty miles of said road should be built within two years

36 from the date of said act, and the whole completed within five years.

And whereas, by an act of the legislature of the State of Minnesota, entitled "An act relating to the Duluth and Iron Range railroad," approved February 17, 1876, the time required for the performance of all acts and duties on the part of the said Duluth and Iron Range railroad, required and specified in said act of March 9, 1875, was extended for the term of three years from February 17, 1876.

And whereas, by an act of the legislature of the State of Minnesota, entitled "An act to amend and continue the act of the legislature of this State, approved March ninth (9), one thousand eight hundred and seventy-five (1875), relating to the Duluth and Iron Range Railroad Company," approved March 6, 1883, it was provided that said railroad company should continue and have perpetual succession, and said railroad company was thereby empowered to relocate and change the line of its railroad so as to make the northern terminus thereof, at some convenient point to be selected by said company, in township sixty-two (62), north of range fifteen (15) west; and by said act the time for the survey, location and

completion of said line of railroad was extended for the period of five years from and after the time of the passage of said act, to wit, March 6, 1883; and said act expressly reserved and saved to
37 said railroad company all grants, property, rights, privileges and immunities which were contained in said legislative act approved March 9, 1875.

And whereas, it was provided under said act of March 6, 1883, that said railroad company might at any time select and certify to the auditor of the State the swamp lands granted as aforesaid, in aid of the construction of its line of railroad, and that none of said lands should be conveyed by deed to said corporation until it should have completed its line of railroad from the northern terminus thereof to and within the corporate limits of the village of Duluth; and providing that said corporation might, within six months from the time of the approval of said act, file in the office of the secretary of state a resolution of its board of directors, approved by its stockholders, accepting the provisions of said act, and upon the filing of such resolution said corporation should become entitled to the benefits and provisions of said act, and the same should become obligatory.

And whereas, on the fifth day of May, 1883, said railroad company filed in the office of the secretary of said State of Minnesota, a resolution of its board of directors, approved by its stockholders, accepting the provisions of said act.

And whereas, the said railroad company has surveyed, located, constructed and completed, and did, prior to the sixth day of March, 1888, construct and complete, with the necessary cars,
38 rolling stock, fixtures and appurtenances, and having regular trains of cars running thereon, its line of railroad extending ninety-four and eight-tenths continuous miles from the iron mines of the Minnesota Iron Company (the point selected by said company in township sixty-two (62), north of range fifteen (15) west, for its northern terminus) to and within the corporate limits of the village of Duluth (of which construction and completion full and satisfactory proof has been made and filed with the governor of this State by the sworn commissioner heretofore duly appointed by him to examine said railroad); and said railroad company is by reason thereof, now entitled to deeds of conveyance for the swamp lands lying within ten miles on each side of said line of railroad, and to swamp lands lying outside of said ten-mile limits and situate within the counties of Saint Louis, Lake, and Cook, sufficient to make ten full sections per mile thereof of said swamp lands so granted as aforesaid.

And whereas, the said party of the second part, has already received from the State of Minnesota, by deeds of conveyance, the title — acres of swamp lands in consideration and partial satisfaction of its grant under the several acts of the legislature hereinbefore referred to.

And whereas, the party of the second part has duly se-
39 lected the lands hereinafter described in this deed as and for a portion of lands to which it is entitled as aforesaid.

Now, therefore, this indenture witnesseth, that the State of Minnesota, party of the first part, in consideration of the promises, has granted, bargained, sold, transferred, conveyed, and assigned, and by these presents does grant, bargain, sell, transfer, convey, and assign, unto the Duluth and Iron Range Railroad Company, party of the second part, its successors and assigns, forever, — acres of swamp land, situated in the county of ——, in the district of lands subject to the sale at —, being the several tracts and parcels of lands particularly described as follows, to wit: * * * being the interest and title in and to the said tracts and parcels of land that the State of Minnesota may rightfully convey.

To have and to hold the same to the said The Duluth and Iron Range Railroad Company, its successors and assigns forever.

In witness whereof, the said party of the first part has caused the great seal of the State of Minnesota to be hereunto affixed, and this indenture to be signed by the governor pursuant to the authority aforesaid.

—— ——.
—— ——.
—— ——.

Attest: —— ——,
Secretary of State.

40 Signed, sealed, and delivered in the presence of—
—— ——.
—— ——.

STATE OF MINNESOTA, } ss:
Ramsey County, }

Be it known that on this — day of ——, A. D. 18—, personally appeared before me —— ——, governor of the State of Minnesota, who acknowledged that he executed the foregoing conveyance as the act and deed of said State of Minnesota, pursuant to the authority vested in him by law.

Witness my hand and official seal the day and year aforesaid.

—— ——.
—— ——.
—— ——.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

J. L. Greatsinger, came before me personally, and being duly sworn, doth say: That he is an officer, to wit, president, of the Duluth and Iron Range Railroad Company, respondent in the above-entitled action; that the foregoing answer is true of his own knowledge, except as to those matters therein stated on his information and belief, and as to those matters that he believes it to be true.

J. L. GREATSINGER.

41 Subscribed and sworn to before me this 14th day of March, A. D. 1899.

H. J. GRANNIS,
Notary Public, St. Louis Co., Minn.

42 [Endorsed:] 11720. Copy. State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Certain Lands in St. Louis Co., etc.; Duluth and Iron Range R. C. Co., respondent. Petition for writ of error.

Endorsed: Filed Dec. 12, 1899. Darius F. Reese, clerk. Davis, Hollister and Hicks, attorneys for respondent.

43 STATE OF MINNESOTA:

Supreme Court.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and the Penalties Thereon for the Year 1897 Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

On reading and considering the petition of The Duluth & Iron Range Railroad Company, respondent, in the above-entitled cause, praying that a writ of error be allowed, returnable into the Supreme Court of the United States, to review the judgment of the supreme court of the State of Minnesota in the above-entitled cause, entered on the 2nd day of November, 1899, and upon the filing of an assignment of errors—

It is ordered that a writ of error be, and hereby is, allowed, as prayed for, and that the amount of the bond on said writ of error be, and hereby is, fixed at three thousand dollars ($3,000.00), which bond shall operate as a supersedeas.

Dated Dec. 2, 1899.

CHAS. M. START,
Chief Justice of the Supreme Court of the State of Minnesota.

44 [Endorsed:] 11720. Original. State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Certain Lands in St. Louis Co., etc.; Duluth & Iron Range R. R. Co., respondent. Order allowing writ of error.

Endorsed: Filed Dec. 12, 1899. Darius F. Reese, clerk.

45 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Minnesota, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Minnesota, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between The Duluth & Iron Range Railroad

Company, respondent and plaintiff in error, and The County of St. Louis, plaintiff and defendant in error, wherein was drawn into question the validity of a statute of and an authority exercised under said State, on the ground of their being repugnant to the Constitution of the United States, and the decision was in favor of such their validity, and wherein was drawn in question the construction of a clause of the Constitution of the United States and the decision was against the right, title, privilege, and exemption specially set up and claimed under such clause of the said Constitution, a manifest error hath happened, to the great damage of the said Duluth & Iron Range Railroad Company, plaintiff in error, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the thirtieth day of December next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

46 Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, the second day of December, 1899.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG,
Clerk of the United States Circuit Court for the District of Minnesota, Third Division.

Allowed.
CHAS. M. START,
Chief Justice of the Supreme Court of the State of Minnesota.

47 [Endorsed:] 11720. Original. Supreme Court of the United States. Duluth & Iron Range Railroad Company, plaintiff in error, *vs.* County of St. Louis, defendant in error. Writ of error.
Endorsed: Filed Dec. 12, 1899. Darius F. Reese, clerk.

48 *Citation.*

The United States of America to the County of St. Louis, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on December 30th, A. D. 1899, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Minnesota, wherein The Duluth & Iron Range Railroad Company is plaintiff in error and you are defendants in error, to show cause, if any there

be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Charles M. Start, chief justice of the supreme court of the State of Minnesota, this 2nd day of December, A. D. one thousand eight hundred and ninty-nine.

CHAS. M. START,
Chief Justice of the Supreme Court of the State of Minnesota.

49 [Endorsed:] 11720. Original. Supreme Court of the United States. Duluth & Iron Range Railroad Company, plaintiff in error, *vs.* County of St. Louis, defendant in error. Citation.

Endorsed: Filed Dec. 12, 1899. Darius F. Reese, clerk.

Due service of the within citation is hereby admitted at Duluth, Minn., this 4th day of December, 1899.

CHAS. A. TEAR AND
WM. B. PHELPS,
Attorneys for County of St. Louis, Defendant in Error.

50 STATE OF MINNESOTA:

Supreme Court.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and Penalties Thereon for the Year 1897 Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

Know all men by these presents that the Duluth & Iron Range Railroad Company, a corporation organized under the laws of the State of Minnesota, as principal, and J. L. Greatsinger and B. P. Crane, residing at Duluth, Minnesota, as sureties, are held and firmly bound unto The County of St. Louis, the above-named plaintiff, in the sum of three thousand dollars ($3,000.00), to be paid to said County of St. Louis, its successors or assigns; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, our and each of our successors, representatives, and assigns, firmly by these presents.

Sealed with our seals and dated the 21st day of November, 1899.

Whereas a judgment was entered in the supreme court of the State of Minnesota on the 2nd day of November, 1899, in a suit therein pending, brought against certain lands in the county of St. Louis, State of Minnesota, for the purpose of enforcing the payment of taxes and the penalties thereon for the year 1897 delinquent and unpaid on the first Monday in January, 1899, wherein said County

of St. Louis was plaintiff and said Duluth & Iron Range
51 Railroad Company was respondent, in favor of said plaintiff and against said respondent, and the said respondent having applied for a writ of error from the Supreme Court of the United States to the supreme court of the State of Minnesota to reverse said judgment:

Now, therefore, the condition of this obligation is such that if the above-named Duluth & Iron Range Railroad Company shall prosecute said writ to effect and answer all damages and costs if it fail to make its plea good, then this obligation shall be void; otherwise the same shall be and remain in full force and effect.

In testimony whereof the said Duluth & Iron Range Railroad Company has caused these presents to be signed by its president and its corporate seal to be hereto affixed, and we, the said J. L. Greatsinger and B. P. Crane, have hereunto signed our names and affixed our seals this 21st day of November, 1899.

THE DULUTH AND IRON RANGE RAILROAD COMPANY,
By J. L. GREATSINGER, *President.* [SEAL.]
J. L. GREATSINGER. [SEAL.]
B. P. CRANE. [SEAL.]

Signed, sealed, and delivered in presence of—
H. J. GRANNIS.
FRANK HICKS.

{Seal of the Duluth and Iron Range Railroad Co., Corporate Seal of Minnesota.}

Attest: C. P. COFFIN, *Secretary.*

52 STATE OF MINNESOTA, } ss:
County of St. Louis, }

On this 21st day of November, A. D. 1899, before me appeared J. L. Greatsinger, to me personally known, who, being by me duly sworn, did say that he is the president of Duluth & Iron Range Railroad Company, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was so signed and sealed in behalf of said corporation by said J. L. Greatsinger by authority of its board of directors, and said J. L. Greatsinger acknowledged the said instrument to be the free act and deed of said corporation.

H. J. GRANNIS, [NOTARIAL SEAL.]
Notary Public, St. Louis Co., Minn.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

On this 21st day of November, A. D. 1899, before me, a notary public within and for said county, personally appeared J. L. Greatsinger and B. P. Crane, to me known to be the persons described in

and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

H. J. GRANNIS, [NOTARIAL SEAL.]
Notary Public, St. Louis Co., Minn.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

J. L. Greatsinger and B. P. Crane, being duly sworn, say each for himself that he is one of the sureties above named; that he is a resident and freeholder of the State of Minnesota and worth the amount of three thousand dollars, specified in the foregoing bond, above his debts and liabilities and exclusive of his property exempt from execution.

J. L. GREATSINGER.
B. P. CRANE.

Subscribed and sworn to before me this 21st day of November, 1899.

[NOTARIAL SEAL.] H. J. GRANNIS,
Notary Public, St. Louis Co., Minn.

53 [Endorsed:] 11720. Copy. State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Certain Lands in St. Louis County, etc.; Duluth & Iron Range R. R. Co., respondent. Bond on writ of error. I hereby approve the within bond and the sureties thereon. Chas. M. Start, chief justice of the supreme court of Minnesota. Davis, Hollister & Hicks, attorneys for respondent. Endorsed: Filed December 12, 1899. Darius F. Reese, clerk. The amount of penalty and the sureties in the within bond are satisfactory. Duluth, Minn., November 23, 1899. Wm. B. Phelps, Co. att'y, St. Louis Co., Minn.

54 STATE OF MINNESOTA:

Supreme Court.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY TO ENFORCE THE PAYment of Taxes and Penalties Thereon for the Year 1897 Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

Assignment of Errors to be Urged in the Supreme Court of the United States.

Now comes the above-named respondent, Duluth & Iron Range Railroad Company, and says that the supreme court of the State of Minnesota, in its decision, order, and judgment affirming the judgment of the district court of said county, committed error in the following particulars, to wit:

I.

In affirming the said order and judgment of the district court of St. Louis county.

II.

In sustaining the conclusion of law of said district court that upon the facts found the lands described in the answer of said Duluth & Iron Range Railroad Company are liable for taxes, penalties, and costs for the year 1897.

III.

In sustaining the decision of said district court denying the claim of the above-named respondent that said lands are exempt from taxation for the year 1897.

IV.

In sustaining the decision of said district court denying the claim of the respondent that the several acts of the legislature of the State of Minnesota set forth in said answer granting said
55 lands to the Duluth & Iron Range Railroad Company, the construction of the railroad by said company under and pursuant to said acts, the acceptance of said railroad by the State, and the conveyance of said lands to said company at the times and in the manner in said answer stated constituted a contract between the State of Minnesota and the Duluth & Iron Range Railroad Company to the effect that said lands should not be subject to taxation until the expiration of five years from the issuance to said railroad company of the patents or deeds of said lands unless the same should be previously sold or disposed of by said company.

V.

In holding that the legislature of the State of Minnesota had no authority under the constitution of said State to make the contract last above mentioned.

VI.

In sustaining the decision of said district court denying the claim of the respondent that the act of the legislature of the State of Minnesota approved March 19th, 1895, being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, entitled "An act relating to the taxation of certain lands owned by railroad companies in this State and repealing — laws and parts of laws relating to the taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," impairs the obligation of said contract between the State of Minnesota and the said Duluth & Iron Range Railroad Company.

VII.

In sustaining the decision of said district court denying the claim of the respondent that said act of March 19th, 1895, in so far as it

impairs the obligation of said contract, conflicts with section ten (10) of article one (1) of the Constitution of the United States and is for that reason void.

56 VIII.

In sustaining the decision of said district court denying the claim of the respondent that the enforcement of the taxes and penalties against said lands for the year 1897 would result in depriving this respondent of its property without due process of law, contrary to the provisions of section one (1) of article fourteen (14) of the amendments of the Constitution of the United States.

IX.

In sustaining the decision of said district court denying the claim of the respondent that the acceptance of the act of March 10th, 1873, by said Duluth & Iron Range Railroad Company, as in said answer set forth, constituted a contract between the said railroad company and the State of Minnesota that the lands of said company should not be subject to taxation like other real estate, but that the payment of the percentage of the gross earnings of said railroad, as in said act provided, should be in lieu of all other taxation, and that by reason of said contract the lands in said answer described are free from taxation for the year 1897 except the requirement to pay said gross-earnings tax.

X.

In sustaining the decision of said district court denying the claim of the respondent that said act of March 19th, 1895, being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, impairs the obligation of the contract last above mentioned.

XI.

In sustaining the decision of said district court denying the claim of the respondent that said act of March 19th, 1895, in so far as it impairs the obligation of said last-mentioned contract, is contrary to the provisions of section ten (10) of article one (1) of the Constitution of the United States and is for that reason void.

57 All of which errors are disclosed in the records and proceedings in said cause.

Wherefore said Duluth & Iron Range Railroad Company prays that the judgment of the supreme court of the State of Minnesota herein may be reversed.

DAVIS, HOLLISTER AND HICKS AND
HENRY J. GRANNIS,
Attorneys for Duluth & Iron Range Railroad Company.

DAVIS, KELLOGG AND SEVERANCE, *Of Counsel.*

58 [Endorsed:] 11720. Copy. State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Certain Lands in the County of St. Louis to Enforce the Payment of Taxes, etc.;

Duluth & Iron Range R. R. Co. Assignment of errors to be urged in the Supreme Court of the United States.
Endorsed: Filed Dec. 12, 1899. Darius F. Reese, clerk.

59 STATE OF MINNESOTA:

Supreme Court.

STATE OF MINNESOTA, *County of St. Louis,* } ss:

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and the Penalties Thereon for the Year 1897 Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

The above-entitled proceeding being one instituted by the County of St. Louis under the provisions of chapter eleven (11) of the General Statutes of Minnesota for the Year 1878, came on to be heard before the court, without a jury, at the March, 1899, general
60 term thereof, upon the answer and objections of the above-named Duluth & Iron Range Railroad Company, hereinafter designated as respondent, wherein the said respondent objected to the entry of judgment for the taxes and penalties for the year 1897, against the several tracts and parcels of land described in said answer, upon various grounds, as more fully appears by said answer, a copy of which is contained in this return, and to which reference is hereby made; after hearing the evidence and arguments of counsel, the court having decided against the defenses and objections of said respondent, now, upon application of the said respondent therefor, and deeming the points raised by it of great public importance, and likely to arise frequently, the respondent having given the undertaking provided by law, the court makes a brief statement of the facts established bearing on said points and of its decision thereon, for the information of the supreme court, pursuant to the provisions of said chapter eleven (11):

All of the lands described in said answer were included by the auditor of said county of St. Louis in the list of lands upon which taxes for the year 1897 were claimed to have become delinquent on the first Monday in January, 1899, which said list was duly filed in the office of the clerk of said district court.

61 That on the 17th day of March, 1899, the said respondent, Duluth & Iron Range Railroad Company, duly filed in the office of the clerk of said district court its said answer, of which the following is a true copy:

STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and the Penalties Thereon for the Year 1897; Duluth & Iron Range Railroad Company, Respondent.

In the matter of proceedings to enforce the payment of taxes and penalties for the year 1897, on real estate situated in St. Louis county, Minnesota, claimed to be delinquent and unpaid on the first Monday in January, 1899, the respondent above named, The Duluth & Iron Range Railroad Company, a corporation, hereby makes anwer and states its objections to the enforcement of
62 said alleged delinquent taxes and penalties, in respect to certain lands owned by it, which are affected by said proceedings and are hereinafter particularly described.

I.

Said respondent, Duluth & Iron Range Railroad Company, alleges that it is, and has been since a date anterior to March 9, 1875, a corporation duly organized and created under and by virtue of the general laws of the State of Minnesota, that is to say, under the provisions of title one (1), chapter thirty-four (34), of the General Statutes of 1866 of said State, and the several acts amendatory thereof and supplementary thereto.

II.

That said respondent, Duluth & Iron Range Railroad Company, is the owner of the following-described tracts, pieces or parcels of land situated in St. Louis county, Minnesota, to wit:

	Sec.	T.	R.
S. W. ¼ of N. W. ¼	10	56	12
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	13	60	12
Lot 2	4	56	13
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼, lots 7 & 8	26	56	17
Lot 4, W. ½ of N. W. ¼, N. ½ of S. W. ¼	28	56	17
N. E. ¼ of S. E. ¼	30	56	17
W. ½ of N. E. ¼, N. E. ¼ of N. W. ¼, S. ½ of N. W. ¼	32	56	17
Lots 3 and 4, N. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼	19	57	17
N. E. ¼ of N. E. ¼, S. W. ¼ of S. E. ¼, N. ½ of S. E. ¼	21	57	17
N. ½ of N. W. ¼, S. E. ¼ of N. W. ¼, N. ½ of S. W. ¼, N. E. ¼ of S. E. ¼	23	57	17
N. E. ¼ of S. W. ¼, S. ½ of S. W. ¼, S. E. ¼	24	57	17
S. W. ¼ of S. W. ¼	27	57	17
N. W. ¼ of N. E. ¼, S. ½ of N. E. ¼, S. E. ¼ of N. W. ¼, N. ½ of S. E. ¼	13	60	17
S. E. ¼ of N. W. ¼, E. ½ of S. W. ¼	21	55	18

	Sec.	T.	R.
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	22	55	18
N. W. ¼, N. E. ¼ of S. W. ¼	27	55	18
63 N. E. ¼, E. ½ of N. W. ¼, N. ½ of S. E. ¼	28	55	18
E. ½ of S. W. ¼, S. E. ¼ of N. W. ¼	2	55	18
N. E. ¼ of N. W. ¼	11	55	18
S. E. ¼	13	51	18
W. ½ of N. E. ¼, N. W. ¼	24	51	18
Lot 3, S. W. ¼ of N. W. ¼	2	52	18
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	10	52	18
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼, S. ½ of S. E. ¼	23	52	18
N. W. ¼ of S. W. ¼	24	52	18
N. W. ¼ of N. W. ¼	25	52	18
Lots 1, 2 and 3, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	1	53	18
S. ½ of S. W. ¼, S. W. ¼ of S. E. ¼	3	53	18
S. E. ¼	4	53	18
S. ½ of N. E. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼	8	53	18
S. E. ¼ of N. W. ¼, S. W. ¼	9	53	18
S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼, S. E. ¼ of N. E. ¼, E. ½ of S. E. ¼	10	53	18
S. ½ of N. E. ¼, S. ½ of N. W. ¼, S. W. ¼, W. ½ of S. E. ¼	11	53	18
N. E. ¼ of S. E. ¼	11	53	18
N. W. ¼ of N. E. ¼, N. ½ of N. W. ¼	14	53	18
N. E. ¼ of N. E. ¼, W. ½ of N. E. ¼, N. E. ¼ of N. W. ¼, S. ½ of N. W. ¼, N. ½ of S. W. ¼	15	53	18
S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	15	53	18
S. ½ of N. W. ¼	17	53	18
W. ½ of N. W. ¼, W. ½ of S. W. ¼	26	53	18
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼	27	53	18
N. ½ of N. E. ¼	34	53	18
S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼	35	53	18
S. ½ of S. W. ¼, S. ½ of S. E. ¼	2	54	18
N. ½ of S. W. ¼, S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	3	54	18
N. ½ of S. E. ¼	4	54	18
N. E. ¼ of S. W. ¼, N. W. ¼ of S. E. ¼	9	54	18
N. ½ of S. W. ¼, S. ½ of S. E. ¼	10	54	18
N. ½ of N. E. ¼, N. E. ¼ of N. E. ¼	11	54	18
S. W. ¼ of N. E. ¼, N. W. ¼ of S. E. ¼, S. E. ¼ of S. E. ¼	34	54	18
N. W. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. E. ¼ of S. E. ¼	35	54	18
S. W. ¼ of N. E. ¼, S. ½ of N. W. ¼	22	56	18
N. W. ¼	23	56	18
N. E. ¼ of N. E. ¼	24	56	18
N. ½ of N. W. ¼	26	56	18
N. E. ¼ of N. E. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	27	56	18
S. E. ¼ of S. E. ¼	10	57	18
N. E. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼	11	57	18
S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	21	57	18
E. ½ of N. W. ¼, S. E. ¼ of S. W. ¼	22	57	18
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼	28	57	18
Lots 1 and 2, S. ½ of N. E. ¼	6	56	13
S. W. ¼ of N. W. ¼, S. W. ¼ of S. E. ¼	5	56	14

	Sec.	T.	R.
S. E. ¼ of N. E. ¼	7	56	14
N. W. ¼, N. W. ¼ of S. W. ¼	8	56	14
N. ½ of N. E. ¼	17	56	14
Lots 2 and 3, S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼	18	56	14
S. E. ¼ of S. E. ¼	29	56	14
S. W. ¼ of S. W. ¼	32	56	14
S. W. ¼ of S. W. ¼	8	57	14
Lot 6	6	57	14
64 W. ½ of S. W. ¼	14	57	14
N. E. ¼ of S. E. ¼	31	60	14
S. E. ¼ of S. E. ¼	5	55	15
Lot 7	13	55	15
S. E. ¼ of S. W. ¼	34	55	15
Lot 1, S. ½ of N. E. ¼, N. E. ¼ of S. W. ¼	6	56	15
Lot 1, N. E. ¼ of N. W. ¼	7	56	15
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	17	56	15
Lots 2 and 4, S. E. ¼ of N. E. ¼, S. E. ¼ of S. W. ¼, E. ½ of S. E. ¼	18	56	15
S. E. ¼ of S. W. ¼	19	56	15
N. W. ¼ of N. W. ¼, S. ½ of N. W. ¼, N. ½ of S. W. ¼, N. E. ¼ of S. E. ¼, S. W. ¼ of S. E. ¼	20	56	15
N. W. ¼ of N. W. ¼	28	56	15
N. E. ¼ of N. W. ¼, S. W. ¼ of N. E. ¼	30	56	15
N. W. ¼ of S. W. ¼	32	56	15
S. E. ¼ of S. W. ¼	11	60	15
Lots 2, 3 and 4	1	61	15
N. W. ¼ of S. W. ¼	8	51	16
S. W. ¼ of N. W. ¼	3	54	16
Lots 4, 1 and 2, S. ½ of N. E. ¼, N. W. ¼ of S. E. ¼	4	54	16
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼	5	54	16
Lot 1, S. ½ of N. E. ¼, lot 2, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	6	54	16
S. W. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, N. E. ¼ of S. E. ¼	7	54	16
N. W. ¼ of S. W. ¼, S. E. ¼ of S. W. ¼, W. ½ of S. E. ¼	17	54	16
S. E. ¼ of S. W. ¼	18	54	16
N. E. ¼ of N. E. ¼	19	54	16
S. E. ¼ of N. W. ¼, N. E. ¼ of S. W. ¼, S. ½ of S. W. ¼, N. W. ¼ of S. E. ¼, S. ½ of S. E. ¼	24	54	16
N. E. ¼ of S. E. ¼	23	54	16
N. E. ¼ of S. E. ¼	26	54	16
N. W. ¼ of S. W. ¼	28	54	16
N. W. ¼ of S. W. ¼	29	54	16
Lots 4 and 6	30	54	16
N. ½ of N. W. ¼, S. E. ¼ of S. E. ¼	34	54	16
N. E. ¼ of S. W. ¼	35	54	16
Lot 3, S. W. ¼ of N. W. ¼	3	55	16
S. W. ¼ of N. W. ¼	20	55	16
E. ½ of S. E. ¼	21	55	16
S. W. ¼ of N. W. ¼	33	55	16
Lot 5	34	55	16

	Sec.	T.	R.
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	35	57	16
Lot 1	7	58	16
N. E. ¼ of N. W. ¼	19	60	16
N. E. ¼	21	60	16
W. ½ of S. W. ¼	23	60	16
S. W. ¼ of N. W. ¼	8	56	17
Lot 11	22	56	17
N. E. ¼ of N. W. ¼	27	60	18
W. ½	8	52	19
E. ½	32	53	19
S. ½ of N. W. ¼	34	53	19
S. E. ¼ of S. E. ¼	11	55	19
N. E. ¼ of N. W. ¼, N. W. ¼ of N. E. ¼	26	52	20
N. W. ¼ of S. W. ¼	4	56	20
65 N. W. ¼ of N. W. ¼	17	56	20
N. W. ¼ of N. E. ¼	22	56	20
S. W. ¼ of S. W. ¼	28	56	20
S. W. ¼ of N. E. ¼, except 1.73 acres right of way conveyed to D. M. & N. R'y Co	5	57	20
S. E. ¼ of N. W. ¼, except 3.10 acres right of way conveyed to D. M. & N. R'y Co	5	57	20
S. W. ¼ of S. W. ¼, E. ½ of S. W. ¼, S. W. ¼ of S. E. ¼	5	57	20
E. ½ of N. E. ¼, N. E. ¼ of S. E. ¼	7	57	20
N. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼	9	57	20
N. E. ¼ of N. W. ¼	11	57	20
W. ½ of N. E. ¼, N. W. ¼, N. W. ¼ of S. W. ¼	17	57	20
N. E. ¼ of N. E. ¼	19	57	20
S. W. ¼ of N. E. ¼	18	57	20
N. E. ¼ of N. W. ¼	25	57	20
S. W. ¼ of N. E. ¼	34	57	20
Lot 4, S. ½ of N. W. ¼, S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼, N. E. ¼ of S. W. ¼, except 3.50 acres right of way conveyed to D. M. & N. R'y Co	4	57	20
N. ½ of S. E. ¼, except 6.97 acres right of way conveyed to D. M. & N. R'y Co	4	57	20
S. W. ¼ of N. E. ¼, S. ½ of N. W. ¼	5	59	20
Lot 2	7	59	20
N. W. ¼ of N. E. ¼	10	59	20
S. E. ¼ of S. W. ¼, S. W. ¼ of S. E. ¼	13	59	20
S. W. ¼ of S. E. ¼	1	59	20
N. W. ¼ of N. E. ¼	26	59	20
S. E. ¼ of N. E. ¼	13	64	20
S. W. ¼ of N. W. ¼	25	64	20
S. W. ¼ of N. W. ¼, S. W. ¼ of S. W. ¼	1	66	20
S. E. ¼ of N. E. ¼, N. ½ of S. E. ¼, S. E. ¼ of S. E. ¼	2	66	20
S. W. ¼ of S. W. ¼	11	66	20
N. W. ¼ of N. E. ¼, S. W. ¼ of N. E. ¼, S. E. ¼ of N. W. ¼	25	66	20
N. E. ¼ of S. W. ¼, S. E. ¼ of N. W. ¼	18	66	20
S. W. ¼ of S. E. ¼	2	56	21
S. E. ¼ of S. W. ¼	26	56	21

	Sec.	T.	R.
N. E. ¼ of N. W. ¼, S. W. ¼ of N. W. ¼	34	56	21
S. W. ¼ of S. W. ¼	14	57	21
S. W. ¼	13	58	21
S. W. ¼ of S. W. ¼	5	59	21
S. E. ¼ of S. E. ¼	8	59	21
N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼	12	59	21
Lots 5 and 6	30	59	21
S. E. ¼ of S. E. ¼	13	61	21
N. W. ¼ of N. E. ¼, S. E. ¼ of N. E. ¼, N. E. ¼ of S. W. ¼, N. ½ of S. E. ¼	21	61	21
N. W. ¼ of S. W. ¼	22	61	21
N. ½ of N. E. ¼, S. W. ¼	23	61	21
N. E. ¼, N. W. ¼, S. W. ¼, S. E. ¼ (all)	25	61	21
S. ½ of S. W. ¼, S. ½ of S. E. ¼	27	61	21
S. E. ¼ of S. W. ¼	26	61	21
S. E. ¼ of N. W. ¼, S. ½ of S. W. ¼, S. ½ of S. E. ¼	29	61	21
N. E. ¼, N. ½ of N. W. ¼, E. ½ of S. W. ¼, S. E. ¼	33	61	21
N. ½, S. W. ¼, N. ½ of S. E. ¼	35	61	21
Lot 1, N. W. ¼ of N. E. ¼	35	65	21

66 That the abbreviations "sec.," "T." and "R." in the above description mean, wherever used, section, township and range, respectively, and that the figures placed under said abbreviations refer to the section, township and range, respectively, of the several subdivisions and parcels of land hereinbefore mentioned.

That all of the lands hereinbefore described were included by the auditor of said county in the list of lands upon which taxes were claimed to be delinquent on the first Monday in January, 1899, and said list has heretofore been filed in the office of the clerk of said district court.

III.

That by an act of Congress, approved March 12, 1860, entitled "An act to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, to Minnesota and Oregon and for other purposes," it was provided:

"That the provisions of the act of Congress entitled 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' approved September 28, 1850, be, and the same are hereby, extended to the States of Minnesota and Oregon; provided that the grant hereby made shall not include any lands which the Government of the United States may have re-
67 served, sold or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act."

SEC. 2. "And *it be* further enacted, That the selection to be made from lands already surveyed in each of the States, including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the State of Louisiana in draining the swamp lands

therein, approved March 2nd, 1849, shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act; and as to all lands to be hereafter surveyed within two years from such adjournment, at the next session, after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed."

Approved March 12th, 1860.

That pursuant to said act of Congress the State of Minnesota selected the lands hereinbefore described, and other lands, and said lands were duly certified and conveyed to said State, and it did obtain title to the same prior to the conveyance by said State to said Duluth & Iron Range Railroad Company as hereinafter set forth.

That by an act of the legislature of the State of Minnesota, approved March 9th, 1875, being chapter fifty-four (54) Special Laws of 1875, entitled, "An act granting certain swamp lands to the
68 Duluth & Iron Range Railroad Company," it was provided as follows:

SEC. 1. That for the purpose of aiding the Duluth & Iron Range Railroad Company, a corporation organized under and by virtue of the laws of Minnesota, to construct a railroad from Duluth, by the shortest and most feasible route to the northeast corner of township number sixty (60) north of range number twelve (12) west, on the Mesaba iron range there is hereby granted to the said corporation or its assigns an amount of swamp lands belonging or hereafter to accrue to the State under the act of Congress of March twelfth, eighteen hundred and sixty, equal to ten sections per mile for each mile of said road that may be completed, to be selected within ten miles on each side of the line of said road; and in case there shall not be sufficient amount of said swamp lands unsold or unappropriated within each ten-mile section of said road as completed, then said company shall have the privilege of locating the deficiency on any of the swamp lands belonging or to accrue to the State, not otherwise previously disposed of, within the counties of St. Louis, Lake and Cook, and no other counties in the State; provided, that the gauge of said railroad shall not be less than three feet, with iron or steel rails of not less than twenty-five pounds to the yard; and provided further, that no lands shall inure to the said company under this act until all grants of swamp lands previously
69 made by the State shall be fully satisfied or shall become forfeited by loss of time, or by failure to fulfill the conditions annexed to the said respective grants or otherwise.

SEC. 2. That when the governor of the State shall be duly notified (by the company aforesaid), of the completion of each and every ten miles of said road, it shall be his duty to have same examined by sworn commissioners, and on their certificate of the completion of each consecutive ten miles in a good and substantial manner as contemplated by this act, he shall notify the secretary of state, who shall forthwith cause swamp-land certificates to be issued to the president and directors of said railroad company for the number of acres to which they shall be entitled under this act, for the number of miles so completed as provided in section one; pro-

vided, that within twelve months from the passage of this act, the company aforesaid shall cause a survey of the line of said road to be made, and file a map of the same with the secretary of state; and provided, further, that at least twenty miles of said road shall be built within two years from the date of this act, and the whole completed within five years; and further provided, that none of the lands hereby granted shall be subject to taxation until the expiration of five years from the issuance of the patent by the State, unless previously sold or disposed of by said railroad company.

70 SEC. 3. That after the filing of the map showing the line of road as provided in the last preceding section, all of the swamp lands belonging to the State for ten miles on each side of the line of said road shall be withdrawn from sale for the purposes contemplated in this act.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 9, 1875.

That by an act of the legislature of this State, approved February 17th, 1876, being chapter two hundred and forty-one (241) entitled "An act relating to the Duluth & Iron Range railroad," it was provided as follows:

SEC. 1. That the time required for the performance of all acts and duties on the part of the Duluth & Iron Range railroad required and specified by chapter fifty-four (54) of the Special Laws of 1875, be and the same are hereby extended for the term of three (3) years from the passage of this act.

SEC. 2. This act shall take effect and be in force from and after its passage.

That by an act of the legislature of this State, approved March 6th, 1883, being chapter sixty-nine (69), Special Laws of 1883, entitled

71 "An act to amend and continue the act of the legislature of this State, approved March ninth (9th), one thousand eight hundred and seventy-five (1875) relating to the Duluth & Iron Range Railroad Company," it was provided:

SEC. 1. That the Duluth & Iron Range Railroad Company, a corporation existing under the laws of this State, shall continue and have perpetual succession, and said corporation is hereby empowered to relocate and change the line of its railroad so as to make the northern terminus thereof at some convenient point to be selected by said corporation in township sixty-two (62) north of range fifteen (15) west, and that the time for the survey, location and completion of said line of railroad be, and the same is, extended for the period of five (5) years from and after the time of the passage of this act, hereby expressly reserving and saving to said corporation all grants, property, rights, privileges and immunities in said legislative act approved March ninth (9th), one thousand eight hundred and seventy-five (1875); provided,

SEC. 2. That said corporation may, at any time, select and certify, subject to the prior rights of selection of companies holding grants of earlier date, to the auditor of State, the swamp lands granted as

aforesaid, in the aid of the construction of its line of railroad, but none of said lands shall be conveyed by deed to said corporation until it shall have completed its line of railroad from the northern terminus thereof, to and within the corporate limits of the village of Duluth; provided further:

SEC. 3. That said corporation may, within six (6) months from the time of the approval of this act, file in the office of the secretary of state, a resolution of its board of directors, approved by its stockholders, accepting the provisions of this act and upon the filing of this resolution, the said corporation shall become entitled to the benefits of the provisions of this act, and the same shall become obligatory.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 6, 1883.

That the respondent on the fifth day of May, 1883, filed in the office of the secretary of state, a resolution of its board of directors duly approved by the unanimous vote of all its stockholders accepting the provisions of said last-named act, which resolution is in the words and figures following, to wit:

"The following resolution was offered and unanimously passed, having received five thousand votes in favor thereof, to wit:

"Whereas, the board of directors of this corporation in the forenoon of this 25th day of April, A. D. 1883, at a meeting of said board, duly adopted a resolution in the words and figures following, to wit:

"Resolved by the board of directors of the Duluth & Iron Range Railroad Company, that the act of the legislature of the State of Minnesota, entitled, 'An act to amend and continue the act of the legislature of this State, approved March ninth (9th), A. D. one thousand eight hundred and seventy-five (1875) relating to the Duluth & Iron Range Railroad Company,' approved March sixth (6th) A. D. 1883, be and the same is accepted by the corporation and all and singular the provisions of said legislative act, are hereby declared to be binding and obligatory upon this company, as appears by the records and minutes of said board now here exhibited. Now, therefore, be it

"Resolved, by the stockholders of said The Duluth & Iron Range Railroad Company, duly convened, that the foregoing resolution of acceptance is in all respects approved, ratified and confirmed."

That by an act of the legislature of this State, approved March 10th, 1885, being chapter eighty-seven (87) Special Laws 1885, entitled "An act to amend section one (1) of chapter fifty-four (54) of the Special Laws of one thousand eight hundred and seventy-five (1875), entitled, An act granting swamp lands to the Duluth and Iron Range Railroad Company, it was provided:

SEC. 1. That section one (1) of chapter fifty-four (54) of the Special Laws of one thousand eight hundred and seventy-five (1875) be amended so as to read as follows:

SEC. 1. That for the purpose of aiding the Duluth and Iron Range Railroad Company, a corporation organized under and by virtue of

the laws of the State of Minnesota, to construct a railroad from Duluth by the most feasible route, to the northeast corner of township numbered sixty (60) north, of range numbered 12 west, there is hereby granted to said corporation, or its assigns, an amount of swamp land belonging to, or that may hereafter accrue to, the said State equal to ten (10) sections per mile for each mile of railroad that is or may be completed by said railroad company in the construction of its said railroad to be selected from any swamp lands belonging to, or that may accrue to said State, unsold or unappropriated; provided that the said railroad from its present terminus in township sixty-two (62) north, range fifteen (15) west, shall be constructed and in operation to the village of Duluth on or before the sixth (6) day of March, one thousand eight hundred and eighty-eight (1888).

SEC. 2. This act shall take effect and be in force from and after its passage.

That the respondent caused a survey of the line of said
75 railroad to be made from Duluth to the northern terminus thereof at Tower, in township sixty-two (62) north, of range fifteen (15) west, and on the 28th day of May, 1883, filed a map of such survey showing the location and line of said railroad, with the secretary of state of this State. That under its articles of incorporation and the acts of the legislature of this State, aforesaid, respondent was authorized to construct a railroad from Duluth to the village of Tower, its northern terminus, in town 62, north of range 15 west. That about the first of June, 1883, respondent commenced the construction of said railroad, and on the 20th day of December, 1886, had constructed and fully completed said railroad and had the same in operation from said Tower, its northern terminus, to and within the corporate limits of the village, now city, of Duluth. That the length of said railroad so constructed and in operation from its northern terminus in town 62, north of range 15 west, to its terminus in the city of Duluth is ninety-four and eight-tenths miles ($94\frac{8}{10}$).

That on the 17th day of October, 1887, the respondent duly notified the governor of this State of the completion of the entire line of its railroad as aforesaid, and that the same was in operation and open for business on the 20th day of December, 1886. That thereupon the said governor had the said railroad examined by sworn
commissioners duly appointed by him for that purpose, and
76 the said commissioners on the 15th day of November, 1887, filed with the governor their certificate of the due completion of the entire line of said railroad, which certificate is as follows:

"To the Honorable A. R. McGill, governor of Minnesota.

SIR: We, the undersigned, sworn commissioners, appointed by you to examine the Duluth and Iron Range railroad, respectfully report as follows:

We made on Monday, November 7th, 1887, an examination of said road, and found that the Duluth and Iron Range Railroad Company had constructed in a good and substantial manner, a con-

tinuous line of railroad, from the village of Duluth to its northern terminus at the iron mines of the Minnesota Iron Company, in township sixty-two (62), north of range fifteen (15) west.

We found said railroad first class and constructed within the time specified by the act of the legislature of the State of Minnesota, of March 9th, 1875, and acts amendatory thereof, making and continuing a grant of swamp lands to the Duluth and Iron Range Railroad Company, to aid in the construction of said railroad.

The length of said railroad from the elevator switch in the village of Duluth, at which point it connects with the St. Paul &
77 Duluth railroad, to the end of the track at the said mines, we find by the statement and plat furnished us by the chief engineer of said Duluth and Iron Range railroad, which statement and plat we append to this report, to be ninety-four and eight-tenth- (94.8) miles.

The road is first class in every respect, equipped with excellent rolling stock and extensive ore docks at the shipping port of Two Harbors. The track is of the standard gauge and is laid with first-class steel rails, 61 pounds to the yard, connected by standard angle bars, and is underlaid with twenty-six hundred and forty to three thousand ties per mile and ballasted with gravel the entire distance. All the bridges are well constructed and substantial.

From the report made to us by the officials of said railroad company, we find that the ore docks of the company at Two Harbors have cost over two hundred thousand dollars, and the merchandise docks at the same place over thirty thousand dollars. That nearly 400,000 tons of iron ore have been transported by the road and shipped through those ore docks this season. That since the opening of this road, which was *par*-tically completed in 1884, up to the close of this season, 990,000 tons of iron ore have been mined and shipped to market over this road, the mining cost of which and its transportation to the lake shipping port at Two Harbors has ex-
ceeded three million dollars—all of which moneys have been
78 expended in this State,—to say nothing of the cost of the railroad and its equipments which has been about three and a half million dollars more. They also report to us that the said road has the following equipment:

Passenger cars, 4; box cars, 24; flat cars, 115; ore cars with a capacity of twenty-four tons each, 400; first-class locomotives, 17. And that the said railroad company employs at the present time three hundred and fifty men, and that there are employed at the said mines over twelve hundred men.

We were highly impressed with the great value to the State of Minnesota of this important development and the immense future possibilities, which we deem it highly probably will be reached at an early day.

The results achieved since 1884 in this wilderness are astonishing. Minnesota bids fair to take a foremost position as a producer of first-class iron ore, second to no State in the Union, both as to quality and quantity.

The utilization of this ore, by its manufacture within our State

into all the products which iron ore is capable of being used for, to supply the demand of the growing empire of the Northwest requires, in our judgment, only the same courage, enterprise and judicious investiment of large capital as has been combined and freely
79 employed in the existing developments."

St. Paul, Minnesota, November 14th, 1887.

R. B. LANGDON.
H. B. STRAIT.
WILLIAM BICKEL.

STATE OF MINNESOTA, }
County of Ramsey, } ss:

Be it known that on this 14th day of November, 1887, personally appeared before me R. B. Langdon, H. B. Strait, and William Bickel, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their own free act and deed.

[SEAL.]

P. M. KERST,
Notary Public, Ramsey Co., Minn.

Filed November 15th, 1887.

That together with said report there was filed with the said governor a certificate, of which the following is a copy:

"To the Honorable R. B. Langdon, H. B. Strait, and William Bickel, commissioners appointed by the governor of the State of Minnesota to examine the line of the Duluth and Iron Range railroad:

"I, Richard Lee, chief engineer of the Duluth and Iron Range Railroad Company, do hereby certify that the length of said road as now constructed from the village of Duluth to its northern terminus in township sixty-two (62) north, range fifteen (15)
80 west, is ninety-four and eight-tenths (94.8) miles.

RICHARD H. LEE,
Chief Engineer."

That the said Duluth and Iron Range Railroad Company duly selected the lands hereinbefore described as and for a portion of the lands to which it is entitled under the aforesaid grant, and pursuant to said several acts of the legislature of the State of Minnesota and by virtue of the acceptance by said railroad company of the provisions of said acts and the performance of the conditions thereof the said State of Minnesota did, within five (5) years prior to the second day of May, 1897, that is, between the second day of May, 1892, and the second day of May, 1897, duly convey and transfer to said Duluth and Iron Range Railroad Company all the lands above described, which conveyance and transfer was made by patents or deeds issued and delivered at different times during said period, all of which patents or deeds are substantially in the form of Exhibit "A" hereto attached and made a part hereof, with the exception of dates, descriptions and signatures. That said Duluth

and Iron Range Railroad Company did not on or prior to May 1st, 1897, sell, dispose of or convey said above-described lands or any part thereof, and that said company is now and ever since receiving said conveyance has been the owner of all of said lands.

81 That no part of said lands were subject to taxation for the year 1897; that under the several legislative acts hereinbefore referred to, and especially the said act of the legislature of the State of Minnesota, approved March 9, 1875, and by virtue of the facts herein set forth, said lands and all thereof were and are exempt from taxation for said year 1897.

IV.

That said several acts of the legislature of the State of Minnesota, granting said lands as aforesaid, the construction of said railroad by respondent under and pursuant to said acts, the acceptance of said railroad by said State and the conveyance of the lands above described to said railroad company at the times and in the manner hereinbefore stated, constituted a contract between the said State of Minnesota and the said Duluth and Iron Range Railroad Company to the effect that said lands should not be subject to taxation until the expiration of five (5) years from the issuance to said railroad company of the patents or deeds of said lands, unless the same should be previously sold or disposed of by said company; that said contract embraced not only the lands above described but all lands conveyed by said State to said railroad company pursuant to said grant.

82 That notwithstanding said contract, the legislature of the State of Minnesota passed an act, approved March 19, 1895, the same being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, entitled as follows:

"An act relating to the taxation of certain lands owned by railroad companies in this State, and repealing laws and parts of laws relating to the taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," which provides in part as follows:

"SEC. 1. All lands in this State heretofore or hereafter granted by the State of Minnesota, or the United States, or the Territory of Minnesota to any railroad company shall be assessed and taxed as other lands are assessed and taxed in this State, except such parts of said lands as are held, used or occupied for right of way, gravel pits, side tracks, depots and all buildings and structures which are necessarily used in the actual management and operation of the railroads of said companies.

"Provided that said railroad companies shall continue to pay taxes into the State treasury upon their gross earnings in the same manner and in the same amount as now provided by law. And that nothing in this act shall be construed to repeal said laws except in so far as the same relate to the tax upon said lands.

83 "SEC. 2. Such portion or portions of any act or acts, general or special, of the State or Territory of Minnesota heretofore

enacted, which provided or attempts to provide for any exemption of lands hereby declared taxable, from taxation, or for any other method of taxing said last-mentioned lands different from the method of taxing other lands in this State, or which are in any manner inconsistent with the provisions of this act, are hereby repealed."

That said act was thereafter and at the general election for the year 1896 submitted to and approved by the people of said State.

That said act of May 19, 1895, impairs the obligation of said contract between the said State of Minnesota and the said Duluth and Iron Range Railroad Company; that it violates section ten (10) of article one (1) of the Constitution of the United States, which provides that no State shall pass any law impairing the obligation of contracts, and said act also conflicts with and is repugnant to section eleven (11) of article one (1) of the constitution of the State of Minnesota, which provides, in effect, that no law impairing the obligation of contracts shall ever be passed by said State. That this respondent expressly invokes the protection of said provisions of the Constitution of the United States and of the State of Minnesota. That said act of May 19, 1895, is void in so far as it attempts to subject to taxation lands theretofore exempt and to repeal
84 the provisions of said act of March 9th, 1875, and other laws of the State of Minnesota exempting the lands of this respondent and lands similarily situated from taxation.

V.

That the enforcement of the taxes and penalties against said lands for said year 1897 would be an impairment and violation of said contract contrary to the requirements of section ten (10), article one (1) of the Constitution of the United States and would result in depriving this respondent of its property without due process of law, contrary to the provisions of section one (1) of article fourteen (14) of the amendments to the Constitution of the United States.

VI.

As a further and additional defense to the enforcement of the taxes and penalties for the year 1897 against the lands above described, the respondent alleges that by an act of the legislature of the State of Minnesota, approved March 10th, 1873, being chapter one hundred and eleven (111) of the special laws of said State for the year 1873, entitled "An act providing for the collection of taxes from the St. Paul, Stillwater and Taylor's Falls Railroad Company and other railroad companies;" it was provided:

"SEC. 1. In consideration of an annual payment of a per
85 centum, as provided in this section, by the St. Paul, Stillwater and Taylor's Falls Railroad Company, the railroad, its appurtenances and appendages, and all other property, estate and effects of said corporation, held or used for, in or about the construction, equipment, renewal, repair, maintaining or operating its railroad, including the lands granted to said company to aid in the construction of said railroad, as also the stock and capital of said

company, shall be and hereby are forever exempt from all taxation and from all assessments; and in consideration of the grants made to and the privileges conferred upon the said company, and the exemption contained in this section, the said company shall, during the first three years from and after January 1, 1872, on or before the first day of March of each and every year, pay into the treasury of this State one per cent. on the gross earnings of said railroad, the first payment to be made on the first day of March, one thousand eight hundred and seventy-three (1873), or within fifteen days after the passage of this act; and shall, during the seven years next ensuing after the expiration of the three years aforesaid, pay into the treasury of the State, on or before the first day of March of each year and every year, two per cent. on the gross earnings of said railroad; and shall from and after the expiration of ten years from said first day of January, one thousand eight hundred and seventy-two, on or before the first day of March of each and every
86 year, pay into the treasury of this State three per cent. of the gross earnings of said railroad; and the payment of such per centum annually as aforesaid shall be and is in full of all taxation and assessment whatever. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this State on or before the first day of February, in each year, the truth of which abstract shall be verified by affidavits of the treasurer and secretary of said company; and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstract, full power is hereby vested in the governor of this State, or any other persons appointed by law prescribed to examine, under oath, the officers and employés of said company or other persons; and if any person so examined by the governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for securing to the State the payment of the aforesaid per centums, it is hereby declared that the State shall have a lien upon the railroad of said company, and upon all property, estate and effects of said company whatever real, personal or mixed, and the lien hereby secured to the State shall have and take precedence of all demands, de-
87 crees and judgments against said company; provided, that the lands of said company shall be subject to taxation as soon as sold, leased, or contracted to be sold or leased.

SEC. 2. Any railroad company owning or operating, or which may hereafter own or operate any line or lines of railroad in this State may, by resolution of its board of directors, attested by its secretary and filed with the secretary of state, accept and become subject to the provisions of this act; and in such case the payment of such percentage in lieu of taxes, in accordance therewith, shall commence from and after the first day of March next after the completion of thirty miles of such line hereafter built, or of the entire line, if the same shall be less than thirty miles in length.

SEC. 3. This act shall take effect and be in force from and after its passage."

That on the 16th day of May, 1884, the board of directors of the said Duluth and Iron Range Railroad Company duly adopted a resolution accepting the provisions of said act, approved March 10th, 1873, and it thereby elected to become subject to the provisions of said act, which resolution was duly attested by the secretary of said railroad company, and the same was on the 3rd day of June, 1884, at eleven (11) o'clock a. m., filed with the secretary of
88 state of said State of Minnesota: that this respondent thereupon became and ever since has been subject to the provisions of said act of March 10th, 1873.

That ever since the said acceptance of said act of March 10th, 1873, the respondent has annually paid to the State of Minnesota, as required and within the time specified by said act, the proper gross-earnings tax fixed thereby; that said gross-earnings tax was paid for the year 1897.

That the said act of the State of Minnesota, approved March 10th, 1873, and the acceptance thereof by said Duluth and Iron Range Railroad Company, duly filed as aforesaid, constitute a contract that the said lands of the said railroad company should not be subject to ordinary taxation as other real estate, but that the payment of the percentage of the gross earnings of said railroad, as in said act provided, should be in lieu of all other taxation, and that by reason of said contract the lands hereinbefore described are exempt from taxation for the year 1897, except the requirement to pay said gross-earnings tax, which payment has been made.

That the above-mentioned act of the legislature of the State of Minnesota, approved March 19, 1895, being chapter one hundred and sixty-eight (168) of the general laws of said State for the year 1895, and the approved and ratification thereof by the people of said State whereby it was attempted, among other things, to subject the lands hereinbefore described and lands similarly situated
89 to taxation, the same as other lands are taxed, and to repeal said gross-earnings method of taxation, so far as it affected said lands and lands similarly situated, impairs the obligation of the contract last above mentioned, and is contrary to the provisions of section ten (10), article one (1), of the Constitution of the United States, and to the provisions of section eleven (11), article one (1), of the constitution of the State of Minnesota, which constitutional provisions are relied upon by this respondent.

Wherefore, the said respondent, Duluth and Iron Range Railroad Company, demands judgment that the lands hereinbefore described and all thereof are not subject to and be released from the payment of taxes and penalties for the year 1897.

DAVIS, HOLLISTER & HICKS,
Attorneys for Respondent,
Duluth and Iron Range Railroad Company.

EXHIBIT "A."

This indenture, made this — day of ——, A. D., one thousand eight hundred and ——, between the State of Minnesota, party of the first part, and The Duluth and Iron Range Railroad Company, a corporation organized and existing under and by virtue of the laws of said State of Minnesota, party of the second part.

90 Witnesseth that whereas, under and by virtue of an act of the legislature of the State of Minnesota, entitled "An act granting certain swamp lands to the Duluth and Iron Range Railroad Company," approved March 9, 1875, there was granted to the said railroad company, or its assigns, for the purpose of aiding it to construct a railroad from Duluth to the northeast corner of township number sixty (60), north of range twelve (12) west, on the Mesaba iron range, an amount of swamp lands then belonging, or thereafter to accrue, to the State under the act of Congress of March twelfth (12), eighteen hundred and sixty (1860), equal to ten sections per mile, for each mile of said road, that may be completed, to be selected within ten miles on each side of the line of said road, with the privilege, in case there should not be a sufficient amount of said swamp lands unsold or unappropriated within each ten-mile section of said road as completed, of locating the deficiency on any of the swamp lands belonging or to accrue to the State, not otherwise previously disposed of, within the counties of Saint Louis, Lake and Cook.

And whereas the said grant was upon the condition that the said company should, within twelve months from the passage of said act, cause a survey of the line of said road to be made and file a map of the same in the office of the secretary of state, and that at least twenty miles of said road should be built within two years

91 from the date of said act, and the whole completed within five years.

And whereas, by an act of the legislature of the State of Minnesota, entitled "An act relating to the Duluth and Iron Range railroad," approved February 17, 1876, the time required for the performance of all acts and duties on the part of the said Duluth and Iron Range railroad, required and specified in said act of March 9, 1875, was extended for the term of three years from February 17, 1876.

And whereas, by an act of the legislature of the State of Minnesota, entitled "An act to amend and continue the act of the legislature of this State, approved March ninth (9), one thousand eight hundred and seventy-five (1875), relating to the Duluth and Iron Range Railroad Company," approved March 6, 1883, it was provided that said railroad company should continue and have perpetual succession, and said railroad company was thereby empowered to relocate and change the line of its railroad so as to make the northern terminus thereof, at some convenient point to be selected by said company, in township sixty-two (62), north of range fifteen (15) west; and by said act the time for the survey, location and

completion of said line of railroad was extended for the period of five years from and after the time of the passage of said act, to wit, March 6, 1883; and said act expressly reserved and saved to
92 said railroad company all grants, property, rights, privileges and immunities which were contained in said legislative act approved March 9, 1875.

And whereas, it was provided under said act of March 6, 1883, that said railroad company might at any time select and certify to the auditor of the State the swamp lands granted as aforesaid, in aid of the construction of its line of railroad, and that none of said lands should be conveyed by deed to said corporation until it should have completed its line of railroad from the northern terminus thereof to and within the corporate limits of the village of Duluth; and providing that said corporation might, within six months from the time of the approval of said act, file in the office of the secretary of state a resolution of its board of directors, approved by its stockholders, accepting the provisions of said act, and upon the filing of such resolution said corporation should become entitled to the benefits and provisions of said act, and the same should become obligatory.

And whereas, on the fifth day of May, 1883, said railroad company filed in the office of the secretary of said State of Minnesota, a resolution of its board of directors, approved by its stockholders, accepting the provisions of said act.

And whereas, the said railroad company has surveyed, located, constructed and completed, and did, prior to the sixth day of March, 1888, construct and complete, with the necessary cars,
93 rolling stock, fixtures and appurtenances, and having regular trains of cars running thereon, its line of railroad extending ninety-four and eight-tenths continuous miles from the iron mines of the Minnesota Iron Company (the point selected by said company in township sixty-two (62), north of range fifteen (15) west, for its northern terminus) to and within the corporate limits of the village of Duluth (of which construction and completion full and satisfactory proof has been made and filed with the governor of this State by the sworn commissioner heretofore duly appointed by him to examine said railroad); and said railroad company is by reason thereof, now entitled to deeds of conveyance for the swamp lands lying within ten miles on each side of said line of railroad, and to swamp lands lying outside of said ten-mile limits and situate within the counties of Saint Louis, Lake, and Cook, sufficient to make ten full sections per mile thereof of said swamp lands so granted as aforesaid.

And whereas, the said party of the second part, has already received from the State of Minnesota, by deeds of conveyance, the title — acres of swamp lands in consideration and partial satisfaction of its grant under the several acts of the legislature hereinbefore referred to.

And whereas, the party of the second part has duly se-
94 lected the lands hereinafter described in this deed as and for a portion of lands to which it is entitled as aforesaid.

Now, therefore, this indenture witnesseth, that the State of Minnesota, party of the first part, in consideration of the promises, has granted, bargained, sold, transferred, conveyed, and assigned, and by these presents does grant, bargain, sell, transfer, convey, and assign, unto the Duluth and Iron Range Railroad Company, party of the second part, its successors and assigns, forever, — acres of swamp land, situated in the county of ——, in the district of lands subject to the sale at —, being the several tracts and parcels of lands particularly described as follows, to wit: * * * being the interest and title in and to the said tracts and parcels of land that the State of Minnesota may rightfully convey.

To have and to hold the same to the said The Duluth and Iron Range Railroad Company, its successors and assigns forever.

In witness whereof, the said party of the first part has caused the great seal of the State of Minnesota to be hereunto affixed, and this indenture to be signed by the governor pursuant to the authority aforesaid.

—— ——.
—— ——.
—— ——.

Attest:

—— ——,
Secretary of State.

95 Signed, sealed, and delivered in the presence of—
—— ——.
—— ——.

STATE OF MINNESOTA, *Ramsey County,* } ss:

Be it known that on this — day of ——, A. D. 18—, personally appeared before me —— ——, governor of the State of Minnesota, who acknowledged that he executed the foregoing conveyance as the act and deed of said State of Minnesota, pursuant to the authority vested in him by law.

Witness my hand and official seal the day and year aforesaid.

—— ——.
—— ——.
—— ——.

STATE OF MINNESOTA, *County of St. Louis,* } ss:

J. L. Greatsinger, came before me personally, and being duly sworn, doth say: That he is an officer, to wit, president, of the Duluth and Iron Range Railroad Company, respondent in the above-entitled action; that the foregoing answer is true of his own knowledge, except as to those matters therein stated on his information and belief, and as to those matters that he believes it to be true.

J. L. GREATSINGER.

96 Subscribed and sworn to before me this 14th day of March, A. D. 1899.

H. J. GRANNIS,
Notary Public, St. Louis Co., Minn.

This action or proceeding was duly placed on the calander of said district court for the March, 1899, general term thereof, and was brought on for trial and hearing before the Honorable S. H. Moer, one of the judges of said court, on the 3rd day of April, A. D. 1899, during said term. That the duly authorized attorneys for the respective parties signed and filed a stipulation of facts, bearing upon the issues raised by said answer, which stipulation was, on said trial and hearing, offered in evidence by said respondent, and there being no objection thereto, the same was duly received in evidence by the court; that said stipulation of facts constituted all the evidence offered or received at said trial and hearing. The following is a true copy of said stipulation:

97 STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY TO ENFORCE THE PAYMENT of Taxes and the Penalties Thereon for the Year 1897; Duluth & Iron Range Railroad Company, Respondent.

It is hereby stipulated and agreed by and between the above-named parties, by their respective attorneys, that, for the purposes of the trial and determination of the issues raised by the answer of The Duluth and Iron Range Railroad Company, said respondent, heretofore filed, in the matter of proceedings to enforce the payment of taxes and the penalties thereon for the year 1897, on the real estate described in said answer, the following facts are admitted to be true:

1. That the said respondent, Duluth and Iron Range Railroad Company, is a corporation as in said answer alleged; that it is the owner of all the real estate in said answer described, and
98 that the same was included by the auditor of said county in the list of lands upon which taxes were claimed to be delinquent on the first Monday in January, 1899.

2. That the act of Congress, approved March 12, 1860, entitled "An act to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to Minnesota and Oregon and for other purposes," contained, among other provisions, those set forth in the answer of the respondent herein.

3. That pursuant to said act of Congress the State of Minnesota selected the lands described in said answer and other lands, and said lands were duly certified and conveyed to said State, and it did obtain title thereto prior to the conveyance thereof to the

Duluth and Iron Range Railroad Company, as in said answer set forth.

That the legislature of the State of Minnesota passed an act entitled, "An act granting certain swamp lands to the Duluth and Iron Range Railroad Company," which act was approved March 9, 1875, the same being chapter fifty-four (54) Special Laws of the State of Minnesota for the year 1875; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the said respondent herein.

99 That thereafter the legislature of the State of Minnesota passed an act entitled, "An act relating to the Duluth and Iron Range Railroad Company," which act was approved February 17, 1876, the same being chapter two hundred forty-one (241) of the Special Laws of said State for the year 1876; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the said respondent herein.

That the legislature of the State of Minnesota passed an act entitled, "An act to amend and continue the act of the legislature of this State, approved March 9th, one thousand eight hundred and seventy-five (1875) relating to the Duluth and Iron Range Railroad Company," which act was approved March 6th, 1883, the same being chapter sixty-nine (69) of the Special Laws of said State for the year 1883; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the respondent filed herein.

That the Duluth and Iron Range Railroad Company filed in the office of the secretary of state of the State of Minnesota, a resolution of its board of directors, approved by the unanimous vote of all of its stockholders, accepting the provisions of said act, last above mentioned, which resolution was in the words and figures set forth and contained in said answer of said respondent herein, which resolution was so filed on the 5th day of May, 1883.

100 That the legislature of the State of Minnesota passed an act entitled "An act to amend section one (1) of chapter fifty-four (54) of the Special Laws of one thousand eight hundred and seventy-five (1875) entitled, 'An act granting swamp lands to the Duluth and Iron Range Railroad Company,'" which act was approved March 10, 1885, the same being chapter eighty-seven (87) of the Special Laws of said State for the year 1885; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the said respondent herein.

4. That said respondent caused a survey of the line of the railroad to be made from Duluth to the northern terminus thereof at Tower, in township sixty-two (62), north of range fifteen (15) west, and on the 28th day of May, 1883, filed a map of such survey, showing the location and line of said railroad, with the secretary of state of this State. That under its articles of incorporation, and the acts of the legislature of this State, the respondent was authorized to construct a railroad from Duluth to the village of Tower, its northern terminus, in township sixty-two (62), north of range fifteen (15) west; that about the first of June, 1883, respondent commenced the con-

struction of said railroad, and on the 20th of December, 1886, had constructed and fully completed said road and had the same in operation from Tower, its northern terminus, to and within the corporate
101 limits of the village, now city, of Duluth; that the length of said railroad, so constructed and in operation from its northern terminus in township sixty-two (62), north of range fifteen (15) west, to its terminus in the city of Duluth, is ninety-four and eight-tenths (94.8) miles. That on the 17th day of October, 1887, the respondent duly notified the governor of this State of the completion of its entire line of railroad as aforesaid, and that the same was in operation and open for business on the 20th day of December, 1886; that thereupon the said governor had the said railroad examined by sworn commissioners duly appointed by him for that purpose, and the said commissioners on the 15th day of November, 1887, filed with the governor their certificate of the due completion of the entire line of said railroad, a true copy of which certificate is set forth and contained in the answer of the respondent herein. That together with said certificate there was filed with the said governor a certificate of Richard H. Lee, chief engineer, a true copy of which is set forth and contained in the answer of the said respondent herein.

5. That the said Duluth and Iron Range Railroad Company duly selected the lands described in said answer as and for a portion of the lands to which it is entitled under its grant from the said State and pursuant to said several acts of the legislature of the State of Minnesota, and by virtue of the acceptance by said railroad
102 company of the provisions of said acts, and the performance of the conditions thereof, the said State of Minnesota did within five years prior to the 2nd day of May, 1897, that is, between the 2nd day of May, 1892, and the 2nd day of May, 1897, duly convey and transfer to said Duluth and Iron Range Railroad Company all of the lands described in said answer, which conveyance and transfer was made by patents or deeds, issued and delivered at different times during said period, all of which patents or deeds are substantially in the form of Exhibit "A" attached to said answer with the exception of dates, descriptions and signatures. That said Duluth and Iron Range Railroad Company did not on or prior to May 1st, 1897, sell, dispose of, or convey the lands described in said answer or any part thereof, and that said company is now and ever since receiving said conveyance, has been owner of all of said lands.

6. That the legislature of the State of Minnesota passed an act approved March 10th, 1873, the same being chapter one hundred and eleven (111) Special Laws of said State for the year 1873, entitled "An act providing for the collection of taxes from the St. Paul Stillwater and Taylor's Falls Railroad Company, and other railroad companies," that a true copy of the terms and provisions of said act is set forth and contained in the answer of the said respondent herein.

103 That on the 16th day of May, 1884, the board of directors of the Duluth and Iron Range Railroad Company duly adopted a resolution accepting the provisions of said act of Mar

10th, 1873, and it thereby elected to become subject to the provisions of said act, which resolution was duly attested by the secretary of said railroad company, and the same was on the 3rd day of June, 1884, at eleven (11) o'clock a. m., filed with the secretary of state of the said State of Minnesota, and that said railroad company thereupon became and ever since has been subject to the provisions of said act of March 10th, 1873; that ever since said acceptance of said act of March 10th, 1873, the respondent has annually paid to the State of Minnesota, as required, and within the time specified by said act, the proper gross-earnings tax fixed thereby, and that it paid said gross-earnings tax for the year 1897.

Dated March 30th, 1899.

JOHN M. McCLINTOCK,
Assistant Attorney for St. Louis Co., Minnesota.
DAVIS, HOLLISTER & HICKS,
Attorneys for Respondent, Duluth & Iron Range Railroad Company.

The court having heard the arguments of counsel and having duly considered the same, thereafter and on the 8th day of April, 1899, signed and filed findings of facts and conclusions of
104 law, and order for judgment of which the following is a copy:

STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY TO ENFORCE THE PAYment of Taxes and the Penalties Thereon for the Year 1897; Duluth & Iron Range Railroad Company, Respondent.

In the matter of proceedings to enforce the payment of taxes and penalties for the year 1897, delinquent and unpaid on the first Monday in January, 1899, on real estate situated in St. Louis county, Minnesota, the respondent, Duluth and Iron Range Railroad Company, filed its answer stating its objections to the enforcement of said taxes and penalties, in respect to certain lands owned by it and particularly described in said answer; thereafter said cause having been regularly placed on the calendar of this court for the March, 1899, general term thereof, the issues raised by said answer were duly brought on for trial on the 3rd day of April, 1899,
105 during said term, before the Hon. Samuel H. Moer, one of judges of said court, John M. McClintock, assistant county attorney for said county of St. Louis, and Charles C. Teare, appearing as attorneys for the said county of St. Louis, and Davis, Hollister & Hicks and H. J. Grannis, appearing as attorneys for said Duluth and Iron Range Railroad Company; the court having heard and considered the evidence and the arguments of counsel, and

being fully advised in the premises, makes and files the following findings of fact and conclusions of law:

Findings of Fact.

1. That said respondent, Duluth and Iron Range Railroad Company, is and has been since a date anterior to March 9, 1875, a corporation duly organized and created under and by virtue of the general laws of the State of Minnesota—that is to say, under the provisions of title one (1), chapter thirty-four (34) of the General Statutes of 1866 of said State, and the several acts amendatory thereof and supplementary thereto.

2. That said Duluth and Iron Range Railroad Company is the owner of all the real estate in its said answer described and that the same was included by the auditor of said county in the list of lands upon which taxes are claimed to have become delinquent on the first Monday in January, 1899.

106 3. That the act of Congress, approved March 12, 1860, entitled "An act to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to Minnesota and Oregon and for other purposes," contained, among other provisions, those set forth in the answer of the respondent herein.

4. That pursuant to said act of Congress the State of Minnesota selected the lands described in said answer and other lands, and said lands were duly certified and conveyed to said State, and it did obtain title thereto prior to the conveyance thereof to the Duluth and Iron Range Railroad Company, as in said answer set forth.

That the legislature of the State of Minnesota passed an act entitled, "An act granting certain swamp lands to the Duluth and Iron Range Railroad Company," which act was approved March 9, 1875, the same being chapter fifty-four (54) Special Laws of the State of Minnesota for the year 1875; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the said respondent herein.

That thereafter the legislature of the State of Minnesota passed an act entitled, "An act relating to the Duluth and Iron Range Railroad Company," which act was approved February 17, 1876, the same being chapter two hundred and forty-one (241) of the Special Laws of said State for the year 1876; that the terms

107 and provisions of said act are fully and correctly set forth and contained in the answer of said respondent herein.

That the legislature of the State of Minnesota passed an act entitled, "An act to amend and continue the act of the legislature of this State, approved March 9th, one thousand eight hundred and seventy-five (1875), relating to the Duluth and Iron Range Railroad Company," which act was approved March 6th, 1883, the same being chapter sixty-nine (69) of the Special Laws of said State for the year 1883; that the terms and provisions of said act are fully and correctly set forth and contained in the answer of the respondent filed herein.

That the Duluth and Iron Range Railroad Company filed in the office of the secretary of state of the State of Minnesota, a resolution of its board of directors approved by the unanimous vote of all its stockholders, accepting the provisions of said act last above mentioned, which resolution was in the words and figures set forth and contained in the answer of said respondent herein, which resolution was so filed on the 5th day of May, 1883.

That the legislature of the State of Minnesota passed an act entitled, "An act to amend section one (1), chapter fifty-four (54), of the Special Laws of one thousand eight hundred and seventy-five (1875), entitled, 'An act granting swamp lands to the Duluth
108 and Iron Range Railroad Company,'" which act was approved March 10th, 1885, the same being chapter eighty-seven (87) of the Special Laws of said State for the year 1885; that the terms and provisions of said act are fully set forth and contained in the answer of the said respondent herein.

5. That said respondent caused a survey of the line of railroad to be made from Duluth to its northern terminus at Tower, in township sixty-two (62), north of range fifteen (15) west, and on the 28th day of May, 1883, filed a map of such survey showing the location and line of said railroad with the secretary of state of this State. That under its articles of incorporation, and the acts of the legislature of this State, the respondent was authorized to construct a railroad from Duluth to the village of Tower, its northern terminus, in township sixty-two (62), north of range fifteen (15) west; that about the first of June, 1883, respondent commenced the construction of said railroad, and on the 20th of December, 1886, had constructed and fully completed said road and had the same in operation from Tower, its northern terminus, to and within the corporate limits of the village, now city, of Duluth; that the length of said railroad, so constructed and in operation from its northern terminus in township sixty-two (62), north of range fifteen (15) west, to its terminus in the city of Duluth, is ninety-four and eight-tenths (94.8) miles. That on the 17th day of October, 1887, the respondent
109 duly notified the governor of this State of the completion of its entire line of railroad as aforesaid, and that the same was in operation and open for business on the 20th day of December, 1886; that thereupon the said governor had said railroad examined by sworn commissioners duly appointed by him for that purpose, and the said commissioners on the 15th day of November, 1887, filed with the governor their certificate of the due completion of the entire line of said railroad, a true copy of which certificate is set forth and contained in the answer of the respondent herein. That together with said certificate there was filed with the said governor a certificate of Richard H. Lee, chief engineer, a true copy of which is set forth and contained in the answer of the said respondent herein.

6. That the said Duluth and Iron Range Railroad Company duly selected the lands described in said answer as and for a portion of the lands to which it is entitled under its grant from the said State, and pursuant to said several acts of the legislature of the State of

Minnesota, and by virtue of the acceptance by said railroad company of the provisions of said acts, and the performance of the conditions thereof, the said State of Minnesota did within five years prior to the 2nd day of May, 1897, that is, between the 2nd day of May, 1892, and the 2nd day of May, 1897, duly convey and transfer to said Duluth and Iron Range Railroad Company all of the
110 lands described in said answer, which conveyance and transfer was made by patents or deeds, issued and delivered at different times during said period, all of which patents or deeds are substantially in the form of Exhibit "A," attached to said answer, with the exception of dates, descriptions and signatures. That said Duluth and Iron Range Railroad Company did not on or prior to May 1st, 1897, sell, dispose of or convey the lands described in said answer or any part thereof, and that said company is now, and ever since receiving said conveyance has been the owner of all of said lands.

7. That the legislature of the State of Minnesota passed an act approved March 19, 1895, the same being chapter one hundred and sixty-eight (168) of the General Laws of said State for the year 1896 entitled as follows: "An act relating to the taxation of certain lands owned by railroad companies in this State, and repealing laws and parts of laws relating to taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," which act contained, among other things, the provisions set forth in the answer of the respondent herein.

8. That the legislature of the State of Minnesota passed an act approved March 10th, 1873, the same being chapter one hundred and eleven (111) Special Laws of said State for the year 1873,
111 entitled "An act providing for the collection of taxes from the St. Paul, Stillwater and Taylor's Falls Railroad Company, and other railroad companies;" that a true copy of the terms and provisions of said act is set forth and contained in the answer of the said respondent herein.

That on the 16th day of May, 1884, the board of directors of the Duluth and Iron Range Railroad Company duly adopted a resolution accepting the provisions of said act of March 10th, 1873, and it thereupon elected to become subject to the provisions of said act, which resolution was duly attested by the secretary of said railroad company, and the same was on the 3rd day of June, 1884, at eleven (11) o'clock a. m., filed with the secretary of state of the said State of Minnesota, and that said railroad company thereupon became and has ever since been subject to the provisions of said act of March 10th, 1873; that ever since said acceptance of said act of March 10th, 1873, the respondent has annually paid to the State of Minnesota, as required, and within the time specified by said act, the proper gross-earnings tax fixed thereby, and that it paid said gross-earnings tax for the year 1897.

Conclusions of Law.

That each piece or parcel of land described in said answer is liable for taxes, penalties and costs for the year 1897, in the
112 amount claimed therefor in the list of taxes delinquent January 1st, 1899.

Let judgment be entered accordingly.

Dated April 8th, A. D. 1899.

S. H. MOER,
District Judge.

That thereafter and on the 10th day of April, 1899, judgment was duly entered in accordance with said findings of fact and conclusions of law, a copy of which judgment is as follows:

STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

In the Matter of the Proceedings to Enforce Payment of Taxes on Real Estate Remaining Delinquent on the First Monday in January, 1899, for the County of St. Louis and State of Minnesota.

A list of taxes on real property delinquent on the first Monday in January in the office of the clerk of this court and the notice and list required by law having been duly published as required by law and the 20th day of March, 1899, having passed and the Duluth and Iron Range Railroad Company having filed its answer
113 and objection to the taxes levied upon the pieces and parcels of land hereinafter and in said list set forth and described, and thereupon trial having been duly had upon the same at the general March, 1899, term of said court and the court having, upon said answer and trial, made and filed its findings of fact and conclusions of law ordering judgment as hereinafter set forth,

It is hereby adjudged and decreed that each piece or parcel of land, all situate in the county of St. Louis and State of Minnesota, hereinafter described is liable for taxes, penalties and costs to the amount set opposite the same as follows:

Description.	Sec.	Twp.	Range.	Amount of judgment.

(Here follows description of lands contained in the answer.)

And the amount of taxes, penalties and costs to which as hereinbefore stated, each of said pieces or parcels of land is liable, is hereby declared a lien upon such pieces or parcels of land as against the estate, right, title, interest, claim or lien, of whatever nature, in law or equity, of every person, company or corporation whatsoever; and it is adjudged that unless the amount to which each of said pieces or parcels is liable be paid, each of said pieces or parcels be sold, as provided by law, to satisfy such amount to which it is liable.

114 Witness the Honorable Wm. A. Cant, one of the judges of said court, at Duluth, Minnesota, this tenth day of April, A. D. 1899.

[SEAL.] GEORGE F. CHESTER, *Clerk*,
By H. C. WEDMARK, *Deputy*.

Filed in my office at — o'clock — m. April 10, 1899.
GEORGE F. CHESTER, *Clerk*,
By H. C. WEDMARK, *Deputy*.

That by said answer and objections of the respondent the following points were raised in the district court and the same are hereby certified to the supreme court, to wit:

1. That no part of the lands described in said answer were subject to taxation for the year 1897; that under the several legislative acts set forth in said answer, and especially the act of the legislature of the State of Minnesota, approved March 9th, 1875, entitled "An act granting certain swamp lands to the Duluth and Iron Range Railroad Company," in said answer set forth, and by virtue of the other facts in said answer alleged, said lands and all thereof were and are exempt from taxation for the year 1897.

115 2. That the several acts of the legislature of the State of Minnesota set forth in said answer, granting said lands to the Duluth and Iron Range Railroad Company, the construction of the railroad by said company, under and pursuant to said acts, the acceptance of said railroad by said State, and the conveyance of said lands to said company, at the times and in the manner in said answer stated, constitute a contract between the State of Minnesota, and the said Duluth and Iron Range Railroad Company, to the effect that said lands should not be subject to taxation until the expiration of five years from the issuance to said railroad company of the patents or deeds of said lands, unless the same should be previously sold or disposed of by said company.

3. That the act of the legislature of the State of Minnesota, approved March 19, 1895, being chapter one hundred and sixty-eight (168) of the General Laws of said State for the year 1895, entitled, "An act relating to the taxation of certain lands owned by railroad companies in this State, and repealing laws and parts of laws relating to the taxation of the same, and to provide for the submission of this act to the people of this State for their approval or rejection," impairs the obligation of said contract between the State of Minnesota and said Duluth and Iron Range Railroad Company.

116 4. That said act of March 19, 1895, in so far as it impairs the obligation of said contract, conflicts with section ten (10) of article one (1) of the Constitution of the United States, and is for that reason void.

5. That said act of March 19, 1895, in so far as it impairs the obligation of said contract, conflicts with section eleven (11) of article one (1) of the constitution of the State of Minnesota, and for that reason also is void.

6. That the enforcement of the taxes and penalties against said

lands for the year 1897, would be an impairment and violation of said contract contrary to the requirements of section ten (10), article one (1), of the Constitution of the United States, and would result in depriving this respondent of its property without due process of law, contrary to the provisions of section one (1) of article fourteen (14) of the amendments to the Constitution of the United States.

7. That the said Duluth and Iron Range Railroad Company on the 16th day of May, 1884, duly accepted the provisions of an act of the legislature of the State of Minnesota, entitled, "An act providing for the collection of taxes from the St. Paul, Stillwater and Taylor's Falls Railroad Company, and other railroad companies," approved March 10th, 1873, and ever since said acceptance has annually paid to the State of Minnesota, as required and within the time
117 specified by said act, the proper gross-earnings tax fixed thereby, and paid said gross-earning tax for the year 1897. That the acceptance of said act of March 10, 1873, by said Duluth and Iron Range Railroad Company, as in said answer set forth, constitutes a contract between the said railroad company and the said State of Minnesota that the said lands of said company should not be subject to ordinary taxation like other real estate, but that the payment of the percentage of the gross earnings of said railroad, as in said act provided, should be in lieu of all other taxation, and that by reason of said contract the lands in said answer described are exempt from taxation for the year 1897, except the requirement to pay said gross-earnings tax.

8. That said act of March 19, 1895, being chapter one hundred and sixty-eight (168) of the General Laws of said State for the year 1875, impairs the obligation of the contract last above mentioned.

9. That said act of March 19, 1895, in so far as it impairs the obligation of said last-mentioned contract, is contrary to the provisions of section ten (10) of article one (1) of the Constitution of the United States, and is for that reason void.

That facts established, bearing upon each of said points, are set forth in the findings of fact hereinbefore recited.

That each and every one of said points was decided by
118 said district court against the said respondent, Duluth and Iron Range Railroad Company.

I, therefore, hereby certify that the foregoing contains a true statement of the points raised by the defense and objections of said respondent, in said proceeding, and the facts established bearing on said points, and the decision of the court on said several points, and I hereby transmit the same to the clerk of the supreme court, pursuant to the provisions of chapter eleven (11), General Statutes, 1878.

Dated April 29th, 1899.

S. H. MOER,
Judge of said District Court.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

District Court, Eleventh Judicial Dist.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS COUNTY, MINNESOTA, TO ENFORCE the Payment of Taxes and the Penalties Thereon for the Year 1897 Delinquent and Unpaid on the First Monday in January, 1899; Duluth & Iron Range Railroad Company, Respondent.

119 Whereas, in the above-entitled proceeding the above-named respondent, Duluth and Iron Range Railroad Company, filed its answer setting forth its defenses and objections to the entry of judgment for taxes and penalties for the year 1897, against the several tracts and parcels of lands specifically described in said answer, and to which reference is hereby made, and

Whereas, the said district court has decided against the defenses and objections of said respondent, and said respondent is about to make application to said court for a brief statement of the facts established bearing upon several points raised by its defense and objections and the evidence bearing on said points and the decision thereof, under the provisions of section 1589, of the General Statutes 1894, for the purpose of having the said decision reviewed by the supreme court of said State:

Now, therefore, we, B. P. Crane and J. L. Greatsinger, at the request and on behalf of said respondent, Duluth and Iron Range Railroad Company, do hereby undertake, promise, and agree, to and with said county of St. Louis, that said respondent will pay the amount for which judgment has been or shall be rendered in said district court, in the above-entitled proceeding, and the penalties and costs allowed by law, if the decision of said district court
120 be affirmed, not exceeding, however, the sum of two thousand dollars in all.

Dated this 26th day of April, A. D. 1899.

J. L. GREATSINGER. [SEAL.]
B. P. CRANE. [SEAL.]

Signed, sealed, and delivered in presence of—
J. H. GRUBER.
H. J. GRANNIS.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

On this 26th day of April, 1899, personally appeared before me B. P. Crane and J. L. Greatsinger, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

[SEAL.]

H. J. GRANNIS,
Notary Public, St. Louis Co., Minn.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

B. P. Crane and J. L. Greatsinger, the persons named in
121 and who executed the foregoing instrument, being duly sworn, says each for himself, that he is a freeholder in the State of Minnesota, and worth the sum of two thousand dollars ($2,000.00) above his debts and liabilities, and exclusive of his property exempt from execution.

J. L. GREATSINGER.
B. P. CRANE.

Subscribed and sworn to before me this 26th day of April, A. D. 1899.

H. J. GRANNIS,
[SEAL.] *Notary Public, St. Louis Co., Minn.*

(Endorsed:) I hereby approve the within undertaking and the sureties therein named. Dated April 29, 1899. S. H. Moer, judge.

122 11720.

STATE OF MINNESOTA:

Supreme Court, October Term, A. D. 1899.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
DULUTH & IRON RANGE R. R. Co., Respondent. } No. 17. Syllabus.

Chapter 111, Sp. L. 1873, providing that railroads accepting that act should pay a gross-earnings tax in lieu of all other taxation on their property, is unconstitutional so far as it is repugnant to the constitutional amendment of 1871 (sec. 32*a* of art. 4), and as that amendment reserves the right to amend or repeal all such gross-earnings laws, the railroads in accepting said ch. 111 did not acquire any contract right that such method of taxation should never be changed, following State *ex rel.* Marr *v.* Stearns Co., 72 Minn., 200.

The provision in ch. 54, Sp. L. 1875, exempting from taxation for five years the lands granted to the Duluth & Iron Range Railroad Co. to aid in the construction of its road, is also unconstitutional so far as it is repugnant to said constitutional amendment of 1871, and after ch. 168, L. 1895, took effect the lands were taxable from and after the time the patent issued.

Order and judgment are affirmed.

123 11720.

STATE OF MINNESOTA:

Supreme Court, October Term, A. D. 1899.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
DULUTH & IRON RANGE R. R. Co., Respondent. } No. 17. Opinion.

The delinquent list of real-estate taxes assessed in St. Louis Co. in 1897 included many parcels of real estate owned by the Duluth & Iron Range Railroad Co. The list was filed in the clerk's office and application made for judgment against the lands. Thereupon the railroad company interposed an answer. On the trial of the issues thus raised the court below found against the railroad Co. on every point and certified all of the points to this court.

The railroad company was organized under the general laws of this State. Thereafter, by ch. 54, Sp. L. 1875, the legislature granted to it certain lands to aid in the construction of its railroad. The act contains this clause: "Provided, that none of the lands hereby granted shall be subject to taxation until the expiration of five years from the issuance of the patent by the State, unless previously sold or disposed of by said railroad company."

When the 1897 tax was assessed and levied the patents had been issued for the lands here in question, but had not been issued five years prior to such assessment or levy.

These lands were granted by Congress to the State to aid in the construction of public improvements, and were held by the State in trust for that purpose. Various acts were passed between
124 1875 and 1885 extending the time for the completion of its road by the railway Co. It commenced the construction of the same in 1883 and completed it in December, 1886.

By ch. 111, Sp. L. 1873, the legislature provided that the St. P. S. & T. F. R. Co. should pay a certain gross-earnings tax in lieu of all other taxation on its railroad and appurtenances and on all other property, "including lands granted to said company to aid in the construction of its said railroad."

The act further provided that any other railroad company then or thereafter owning or operating a railroad within this State could, by resolution of its board of directors file with the secretary of state, accept and become subject to the provisions of the act.

The board of directors of the Duluth & Iron Range Railroad Co. passed such a resolution, which was filed with the secretary of state June 3d, 1884. By ch. 168, L. 1895, the legislature provided for submitting the provisions of the act to a vote of the people, by which provisions it is declared that all such railroad lands shall be subject to taxation. In State *ex rel.* Marr *v.* Stearns Co. we held that the act was duly passed and properly submitted and was duly ratified by popular vote, pursuant to the 1871 amendment to the constitution, known as sec. 32*a* of art. 4. Counsel for the R'y Co. contend that said ch. 168 is unconstitutional because it impairs the obliga-

tion of the contract made between the State and such R'y Co. by said ch. 111 and the resolution adopted and filed pursuant thereto. This contention was completely disposed of in the above-mentioned decision, and it is unnecessary to say anything further on that point.

Counsel further contend that ch. 168 is unconstitutional because it impairs the obligation of the contract made between the same parties by said ch. 54. This question also is substantially disposed of by State *ex rel.* Marr *v.* Stearns Co., and all of the reasons
125 given in that case apply here. Under the provisions of our constitution requiring uniformity of taxation and requiring all property except certain specified exemptions to be assessed for taxation according to its true value in money, the legislature had no power to pass a gross-earnings law, except as permitted by said constitutional amendment of 1871. True, these lands were conveyed for a public purpose, and it may be conceded that, in the absence of constitutional provisions prohibiting it, the legislature might in aid of such purpose have granted the lands exempt from taxation; but we are of the opinion that under our constitutional provisions requiring uniformity of taxation the legislature cannot, even in aid of a public purpose, make an irrevocable contract exempting private property from future taxation, because, even if it is admitted that thereby the legislature did nothing more than anticipate such future taxes and apply them in advance to a specific public purpose, still it is impossible for the legislature to tell at present what, in such a case, will be uniform taxation in the future, or that by such arrangement such property will bear its just and equal share of such future taxation.

The order and judgment of the court below are affirmed.

CANTY, *J.*

126 [Endorsed:] No. 11720. State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Duluth and Iron Range R. R. Co. Copy. Opinion and syllabus. Original. Filed October 23, 1899. D. F. Reese, clerk. October term, A. D. 1899. Canty, J.

127 STATE OF MINNESOTA:

Supreme Court, October Term, A. D. 1899.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS CO., MINN., TO ENFORCE Payment of Taxes and Penalties Thereon for 1897 Delinquent and Unpaid Monday, Jan. 1, 1899; Duluth and Iron Range R. R. Co., Respondent. } No. 17.

Pursuant to an order of court duly made and entered in this cause on the second day of November, A. D. 1899—

It is here and hereby determined and adjudged that the order and judgment of the court below, herein appealed from, to wit, of

the district court of the eleventh judicial district, sitting within and for the county of St. Louis, be, and the same hereby are, in all things affirmed; and it is further determined and adjudged that the plaintiff above named do have and recover of said Duluth and Iron Range R. R. Co., respondent herein, the sum and amount of forty-three and $\frac{75}{100}$ dollars ($43.75), costs and disbursements in this cause in this court, and that said plaintiff have execution for the enforcement thereof.

Dated and signed this 2nd day of November, 1899.

By the court.

[Seal of the Supreme Court, State of Minnesota.]

Attest: D. F. REESE, *Clerk.*

Statement for Judgment.

Costs allowed by statute	$25.00
Clerk's fees, for making return	
Printer's fees	8.25
Clerk's fees, supreme court	10.50
Filing mandate	
Affidavits and acknowledgments	
Postage	
	$43.75

128 [Endorsed:] 11720. State of Minnesota, supreme court. Transcript of judgment. Filed Nov. 2, A. D. 1899. D. F. Reese, clerk. —— ——, attorney for —. Page No. —, — Book.

STATE OF MINNESOTA, *Supreme Court,* } ss:

I, D. F. Reese, clerk of said supreme court, do hereby certify that the foregoing is a full and true copy of the entry of judgment in the cause therein entitled, as appears from the original remaining of record in my office; that I have carefully compared the within copy with said original and that the same is a correct transcript therefrom.

Witness my hand and the seal of said supreme court, at the capitol, in the city of St. Paul, this second day of November, A. D. 1899.

D. F. REESE, *Clerk.*

129 STATE OF MINNESOTA:

Supreme Court, October Term, A. D. 1899.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS CO., Minn., to Enforce Payment of Taxes and Penalties Thereon for 1897 Delinquent and Unpaid Monday, Jan. 1, 1899; Duluth and Iron Range R. R. Co., Respondent.

No. 17. Appeal from District Court, Eleventh Judicial District, County of St. Louis.

This cause having been duly argued and submitted at the general October term of this court, A. D. 1899, upon the return to the appeal herein—

Now, after full and mature deliberation had thereon, it is here and hereby ordered that the order and judgment of the court below, herein appealed from, be, and the same hereby are, in all things affirmed, and that the respondent above named have judgment accordingly.

Entered November 2, A. D. 1899.

By the court.

[Seal of the Supreme Court, State of Minnesota.]

Attest: D. F. REESE, *Clerk.*

I hereby certify that the foregoing is a full and true copy of the original order for judgment entered in the above-entitled cause.

Attest: D. F. REESE, *Clerk.*

130 [Endorsed:] No. 11720. State of Minnesota, supreme court. Copy of order for judgment. Filed Nov. 2, A. D. 1899. D. F. Reese, clerk. Entered on page 7 N.

131 STATE OF MINNESOTA:

Supreme Court, General October Term, A. D. 1899.

FRIDAY MORNING, 9.30 O'CLOCK, *October* 13, *A. D.* 1899.

Court convened pursuant to adjournment, all the justices being present.

COUNTY OF ST. LOUIS, Plaintiff,
vs.
CERTAIN LANDS IN ST. LOUIS CO., MINN., to Enforce Payment of Taxes and Penalties Thereon for 1897, Delinquent and Unpaid Monday, Jan. 1, 1899; Duluth and Iron Range R. R. Co., Respondent.

Cal. No., 17; Reg. No., 11720.

This cause came on to be heard this day upon the return to the appeal herein.

Thereupon the same was argued by counsel, submitted to the court for decision, and taken under advisement.

A true record.

[Seal of the Supreme Court, State of Minnesota.]

Attest: D. F. REESE, *Clerk.*

The foregoing is a full and true copy of the minutes of argument in the above-entitled cause.

Attest: D. F. REESE, *Clerk.*

132 [Endorsed:] 11720. State of Minnesota, supreme court. Copy of minutes of argument. Filed Nov. 2, A. D. 1899. D. F. Reese, clerk.

133 [Endorsed:] No. 11720. State of Minnesota, supreme court. County of St. Louis, plaintiff, against Duluth and Iron Range R. R. Co., respondent. Judgment-roll. Filed November 2, 1899. D. F. Reese, clerk.

134 STATE OF MINNESOTA:

Supreme Court.

STATE OF MINNESOTA, } ss:
Office of Clerk of Supreme Court, }

I, Darius F. Reese, clerk of the supreme court, State of Minnesota, do hereby certify and return to the Supreme Court of the United States that the foregoing and annexed transcript of record is a full and complete transcript of the record and all proceedings, with all things concerning the same, had in the said supreme court of the State of Minnesota, in the case between The County of St. Louis, plaintiff, and The Duluth and Iron Range Railroad Company, respondent, including the opinion of the said supreme court therein, as appears from the original files and records.

And I do further certify and return that I have annexed to said transcript and included therewith, and that the foregoing are, copies of the petition for writ of error, with allowance of same, and of the assignments of error, and of the bond, as the same remain on file and of record in said supreme court of the State of Minnesota, and are the original writ of error from the Supreme Court of the United States, and the original citation issued thereon, with proof of service thereof, and that the foregoing constitutes a true, full, and complete return to said writ of error.

Seal of the Supreme Court, State of Minnesota.

In witness whereof I have hereunto set my hand and the seal of said supreme court of the State of Minnesota, at the capitol, at St. Paul, Minnesota, this 11th day of December, A. D. 1899.

D. F. REESE,
Clerk of the Supreme Court, State of Minnesota,
By J. L. HELM,
Deputy Clerk.

135 [Endorsed:] State of Minnesota, supreme court. County of St. Louis, plaintiff, *vs.* Certain Lands in St. Louis Co., etc.; Duluth & Iron Range R. R. Co., respondent.

Endorsed on cover: File No., 17,592. Minnesota supreme court. Term No., 173. The Duluth and Iron Range Railroad Company, plaintiff in error, *vs.* The County of St. Louis. Filed December 22nd, 1899.